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Croatia Commercial Law Reform Project

FINAL REPORT

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USAID/Croatia

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I. INTRODUCTION

A. PROJECT BACKGROUND

In May 2001, the U.S. Agency for International Development (USAID) awarded the Croatia Commercial Law Reform Project (the Project) to Booz Allen Hamilton. The Project was a follow-on to the Economic and Institutional Reforms for Croatia Program (Task Order PCE-I-03-98-00013-00) undertaken from April 1, 2000 through January 31, 2001. The objective of this Project was to provide technical assistance to the Croatian Ministry of Justice (MOJ) and the Commercial Courts in the Republic of Croatia in the following areas:

- Case management and court administration
- Land registry and cadastre
- Collateral registry
- Company registry
- Alternative dispute resolution
- Enforcement of judgments
- Legal information systems
- Training and public education in the designated areas of technical assistance including bankruptcy.

The court administration and case management activities, and the land registry and cadastre activities were coordinated with the corresponding World Bank projects. The World Bank project was designed to provide assistance to the Croatian legal and business community with the intention that assistance to the legal and business community would encourage foreign and local investment, substantially contributing to an improvement in the Croatian economy.

These areas of technical assistance had been identified by a team of experts from USAID and Booz Allen Hamilton during the March 2000 Commercial Legal and Institutional Reforms (CLIR) assessment, and confirmed in the subsequent Economic and Institutional Reforms for Croatia Program. The Project reconfirmed these areas of technical assistance during meetings with the Ministry of Justice and with members of the Croatian judiciary following the 2000 elections.

The change in the legislative and executive branches of the Government following the 2000 elections led to a change in the Government's legal reform priorities. These changes meant that Croatia was in a position to realize its potential to be a competitive force in the global and regional economies. As a result, Croatia was ready to pursue the above-mentioned reforms.

Listed below is a description of the modifications that were made throughout the life of the Croatia Commercial Law Reform Project:

- Modification No. 1: The purpose of this modification is to transfer to the Contractor the equipment listed to be used under this Task Order.
- Modification No. 2: The purpose of this modification is to increase the obligated amount by "\$1,862,879.00" from "\$1,000,000.00" to "\$2,862,879.00".
- Modification No. 3: The purpose of this modification is to increase the obligated amount by "\$700,000.00" from "\$2,862,879.00" to "\$3,562,879.00".
- Modification No. 4: The purpose of this modification is to increase the obligated amount by "\$1,500,000.00" from "\$3,562,879.00" to "\$5,062,879.00".
- Modification No. 5: The purpose of this modification is to increase the obligated amount by "\$281,821" from "\$5,062,879.00" to "\$5,344,700.00".
- Modification CTO Change: The purpose of this modification is to name Zoran Grubisic-Cabo as the new Cognizant Technical Officer (CTO), replacing Fred Claps.
- Modification No. 6: The purpose of this modification is to extend the completion date of the task order to January 30, 2004 and revise the level of effort as per BAH request dated May 8, 2003.

II. PROJECT RESULTS

A. TASK 1: CASE MANAGEMENT AND COURT ADMINISTRATION

The Project made a significant contribution to the development of an automated case management and court administration system in Croatia. Results included the modules and the project implementation, the standardized forms, and encouraging the MOJ and the courts to consider changes to the Book of Rules. In addition, there was the intangible yet highly valuable result that members of the working group on case management actually participated in discussions about the court and court functions from an entirely new and modern perspective. The introduction to modern thinking about court operations and functions provided the working group with opportunity to evaluate the court's future activities with a more critical eye.

By working with the National Center for State Courts (NCSC) on the joint functional standards and with the World Bank's Project Management Unit (PMU), the groundwork was laid for combining the two projects. Combining the two projects can lead to a substantial benefit for all: the creation of a universal case management system for courts in Croatia.

B. TASK 2: LAND REGISTRY AND CADASTRE

At the end of land registration and cadastre activities at the Zagreb Land Registry Office (LRO), the Project shared its experiences and ideas with the World Bank's Project Implementation Unit of the Real Estate Registration and Cadastre Project. The Project Implementation Unit continued to promote these ideas and later reported that the LRO adopted many of the ideas and plans that the Project had advocated.

The Istria Harmonization Project, which was an area of assistance under Task 2, was successful in demonstrating that new procedures could be used to realize more cost-effective and more efficient harmonization of the land and cadastre records. The project realized a sizeable monetary savings on the small number of parcels in the pilot project. Applying the same methodology to a larger area could result in very substantial savings.

Cooperation with the World Bank's Project Implementation Unit of the Real Estate Registration and Cadastre Project was excellent, and the sharing of information can contribute to the ultimate improvement of land registry activities and quicker harmonization of land and cadastre records.

C. TASK 3: COLLATERAL REGISTRY

Booz Allen assisted in writing a draft law on collateral registry and related secured transaction laws, which was submitted to the MOJ after being amended to reflect input from the Members of the Collateral Registry Committee.

In December 2001 following a trip to Norway to view collateral registries there, the MOJ decided to work more closely with the Norwegian Registry Development. Accordingly, Booz Allen reduced its activities on the collateral registry and continued to monitor the situation for further developments and opportunities for assistance.

D. TASK 4: COMPANY REGISTRY

Booz Allen's activities in digitization and microfilming of archives brought the issue of organizing and preserving the archive files to the attention of the court. It also focused attention on the microfilming equipment that had been purchased and was sitting unused in the Zagreb Commercial Court's basement. At the urging of Booz Allen, the Zagreb Commercial Court began organizing its archives and planning for digitization and microfilming.

E. TASK 5: ALTERNATIVE DISPUTE RESOLUTION

The Project introduced mediation to the Croatian public as an alternative to long and expensive litigation. The training of approximately 100 individuals as mediators contributed substantially to the development of mediation and will continue to provide benefits long after USAID leaves Croatia. In addition to being available to mediate cases, the 100 trained mediators are also a source of continuing advocacy for mediation as an alternative to litigation.

Booz Allen raised the level of awareness of mediation and its benefits through public education and information campaigns. In December 2002, when the Mediation Roundtables were held, the public's level of awareness about alternative methods to resolve disputes was low, and the Croatian Bar Association resisted mediation, which it saw as a threat to lawyers' incomes. At the end of the project, the level of awareness of the benefits of mediation was greatly improved: the Croatian Bar Association had established a mediation service center, which was working with the Commercial Courts to begin a referral program.

Through the Project, Booz Allen and Carr Swanson & Randolph, a mediation services firm and subcontractor on the Project, laid the foundation for commercial mediation in Croatia. Mediation is generally not an instantly popular concept, but experience in North America, the United Kingdom, The Netherlands, and other countries shows that its attractiveness grows over time. The tools are in place for court-annexed mediation to take root in Croatia. Training Commercial Court judges as mediators and the assistance provided to the mediation service centers will give courts the opportunity to refer cases for mediation with the assurance that the cases will be properly handled. For example, the Sunce/Esso mediation that was conducted as part of the project's on-the-job training program was an example of two individuals trained by the Project to mediate a complex commercial case successfully. Based on feedback during the Project, it is anticipated that commercial mediation will become an accepted procedure in Croatia.

III. LESSONS LEARNED

A. When a project is a joint or collaborative project with defined activities by each of the participants, the simultaneous initiation of the projects contributes to shared successes.

The case management task was a collaborative effort between the World Bank and USAID projects. A 9-month delay between the beginning of one project and the start of the sister project hindered the communications process in that complementary activities could not be coordinated.

B. In an information technology (IT) project such as the development of an automated case management system, the design of the system should be synchronized with the technical development of the system.

In the current IT project there was conflict between the system design element and the technical development component regarding division of activities. As the project developed, the contention over this division of activities caused a breakdown in communication. Close coordination of the two activities in an IT project is crucial to ensuring the inclusion of all essential details.

C. Failure to get *and keep* stakeholder buy-in will at a minimum cause delays, contribute to communication problems, and cause a general lack of trust and confidence. Without stakeholder buy-in a project or activity is unlikely to achieve its objectives.

Although there was a memorandum of understanding between USAID and the MOJ, local government, and administration, the senior officials in the Ministry who negotiated and signed the memorandum of understanding had left before the project started or shortly thereafter. The new senior officials seemed to be only vaguely aware of the terms and the objectives of the memorandum of understanding and had no commitment to the projects outlined therein. There should have been a major effort at the start of the project to develop buy-in from the newly appointed senior officials.

Furthermore, the definition of stakeholder must be broad enough to include all major parties interested in the project. Stakeholders should have included the MOJ, the Supreme Court, and the High Commercial Court.

D. A complex project involving major changes and affecting executives, judges, and staff in the courts and ministries should devote sufficient time to change management at the start of the project and during the project.

The task order for the project articulated very specific activities at the beginning of the project. Compliance with the timelines left no time for effective change management training for any of the participants in the project. The failure to devote sufficient time to

change management throughout the project resulted in interpersonal conflict among the parties involved. This interpersonal conflict was particularly noticeable in the case management task and the land registry task where we were introducing new systems that the staff and management saw as a threat to their jobs, causing a substantial increase in workload and forcing them to learn new skills, which they saw as either unnecessary or beyond their ability to learn.

E. Activities that are demand-driven are much more likely to succeed.

This is more a reaffirmation of things known than lessons learned. Programs or activities that were requested by the counterpart were welcomed and enjoyed success. An example of this would be the Commercial Court Advisory Council, which was primarily driven by Booz Allen and which never became sustainable. Another example would be the judicial training. The initial plan for training was developed after discussion with the High Commercial Court and members of the Commercial Court Advisory Council, but the topics were essentially suggestions by Booz Allen to which the Court and judges seemingly consented. However, the topics at the Commercial Court Judges' Judicial Conference, the seminar on "Reading and Understanding Financial Statements," and the seminar on the new company law for company registrar judges were topics that they requested and developed. The inclusion of Commercial Court judges in the early Alternative Dispute Resolution (ADR) Roundtables was the result of a request from the President of the High Commercial Court to include judges in the commercial mediation training.

F. Skills training not only develops skills but also develops a cadre of change agents.

The extensive training in mediation for interested individuals trained them in the principles and skills of mediation and fueled their desire to see it succeed in Croatia. Individuals in the training were responsible for positive articles in the newspapers and spoke in favor of mediation in the community, both valuable public relations tools for the advancement of ADR. Many of the graduates of the training assisted in efforts to find and refer cases for mediation.

G. Benefits of project activities frequently are not immediately obvious.

There is frequent emphasis on immediate results, though the accomplishments of a project are sometimes not obvious at first. Three examples of this include the following:

1. The members of the working group for the automated case management system were skeptical regarding what was being proposed, but after viewing case management systems in The Netherlands and Italy they began to realize some of the benefits and a year later commented that they were beginning to understand how some of the recommended practices would be beneficial.

2. The Project's relationship with the High Commercial Court changed considerably when a new president was appointed. The new president had attended a training program approximately 6 years earlier and had established a relationship with the Chief of Party. After his appointment as President of the High Commercial Court, he supported changes and became a champion for the Booz Allen activities.
3. When the activities at the Zagreb Land Registry were terminated, it seemed that many of the recommendations Booz Allen had made would be forgotten. However, Booz Allen staff has heard on several occasions from the staff at the World Bank's Project Implementation Unit of the Real Estate Registration and Cadastre Project that Booz Allen's recommendations were in fact being implemented in the Zagreb Land Registry Office.

H. Changing terminology of activities will often accomplish the intended results.

It is often possible to accomplish some if not all of a desired objective by changing the terminology. For example, when the Deputy Minister of Justice declared that there would be no court-annexed program for Croatian courts, Booz Allen focused on commercial mediation and included judges in the training for commercial mediation. With the change in the law that permitted the courts to refer cases, judges who had been trained in ADR began to seriously consider referring cases to lighten the court's caseload. Although not court-annexed mediation in the classic sense, the referral of cases to mediation service centers and private individuals accomplishes the same thing as a referral of cases for mediation to another judge in the same court.

IV. IMPLEMENTATION

A. TASK 1: CASE MANAGEMENT AND COURT ADMINISTRATION

Table 1. Case Management: Table of Results

Objectives	Deliverables	Results
Assist the commercial courts with the development, planning, and implementation of improved practices within the courts, which would improve the efficiency and effectiveness of court operations and speed the processing of cases.	Assessment and revalidation of prior reports.	Strahonja and Rose Reports were reviewed and assessed. Strahonja report was reviewed by Varzadin Court Judges and mapped to Booz Allen recommendations. The Rose report was sent to Rijeka and Split Courts, and comments from Rijeka were received. Both reports were presented to the Commercial Court Advisory Council for comment.
	Initial workplan prepared and implementation started.	Immediate difficulties arose in getting cooperation from the High Commercial Court and in coordination with the MOJ. There was a general lack of understanding of project objectives between MOJ and Booz Allen, which were never reconciled and resulted in many of the activities not being completed.
	Standardized process forms	Forms were prepared and discussed with the working group but were never finalized because of working group failure to agree. (See Attachment 3)
	Recommendations for change to Court Book of Rules	Recommendations were made but MOJ refused to consider any recommendations for change. (See Attachment 4)
	Ten modules per agreement	Submitted to the PMU.
	Rollout to pilot courts	Rollout was not possible because of (1) delays and (2) agreement to integrate Commercial Courts and Zagreb Municipal Court automated case management systems.
	Training	There was a lack of cooperation by the MOJ and by the High Commercial Court early in the project. However, computer training at Rijeka and Split Courts was completed. A series of seminars on Reading and Understanding Financial Statements and a seminar on new Company Law for registrar judges was conducted.

The case management and court administration work was a coordinated effort between USAID and the World Bank to improve the operations of the Commercial Courts and the administration of bankruptcy proceedings. The arrangement included Booz Allen's

provision of advisory services to support the development of an automated case management and court administration system and the World Bank's PMU provision of the technical components, including writing the request for proposal (RFP) and developing the application software using the Booz Allen design. The task order provided that Booz Allen further develop the models initially developed by World Bank consultants, develop standardized process forms, and assist in implementing the automated case management and court administration software in the six designated pilot courts.

The project designated the first instance Commercial Courts in Rijeka, Split, Varzadin, Osijek, and Zagreb, and the High Commercial Court as pilot courts. Rijeka and Split were selected as pilot courts for the rollout of the software after it was developed. The project also called for a PMU to be established within the MOJ, which would be responsible for the day-to-day project administration and that a working group of one judge from each of the pilot courts would be appointed to work with and advise Booz Allen.

The Booz Allen team arrived in May 2001 and began its work. The initial workplan was prepared, and the Booz Allen team began detailing operations in the Rijeka and Split Courts. The Project Coordinator was appointed mid-December 2001 and the PMU was operational in early January 2002.

1. Manual Automated System

Very early in the project, it became apparent that the MOJ did not have the same understanding of the project that USAID or the World Bank had. At one of Booz Allen's first meetings with the Head of the Informatics Division for the MOJ, she insisted that Booz Allen develop a comprehensive manual case management system, which after implementation could be replicated on a computerized system. After reviewing the situation and discussing it with USAID, Booz Allen prepared a workplan for the development of a manual case management system. (See Attachment 1 for draft workplan.) When the workplan was forwarded to the World Bank for review, it immediately stated that a manual system was not consistent with the project requirements and instructed the MOJ to abandon the manual system.

2. Working Group

To assist in the development of the case management system, liaisons from each of the six pilot courts were appointed by the MOJ. The initial meeting of the six pilot court liaisons was held in September 2001, four months after Booz Allen began working. On 12 October 2001, the MOJ issued a decision organizing the six pilot court liaisons into an official MOJ working group and added an MOJ representative to the working group that included Booz Allen and USAID representatives.

3. Validation of Consultants' Models

Prior to the startup of the project, two reports on the Commercial Courts' case management systems were prepared. One report written by Dr. Vjeran Strahonja was referred to as the Strahonja Report. The other report, referred to as the Rose Report, was written by a team consisting of Don Rose, Alan Uzelac, and Bjorn Nagell.

After discussion with Dr. Strahonja, it was agreed that the best procedure for evaluating the report would be personal interviews with judges. Consequently, Dr. Strahonja interviewed the judges at the Varzadin Commercial Court, explained the report, and recorded their comments. Later Dr. Strahonja mapped his report against a flow chart of court activities for each of the court's departments prepared by the Booz Allen team. The mapping established that the information in the report and the flow chart of activities were similar.

To validate the Rose Report, Booz Allen gave the report to judges at the Rijeka and Split Commercial Courts and asked them to provide written comments. Comments were received from Rijeka Commercial Court judges, but the judges at the Split Commercial Court did not submit any comments.

The final step in the validation of the two reports was submission to the Commercial Court Advisory Council (see below for discussion of the Council) at its October 2001 meeting for review and comment. They agreed with the findings of the Rose Report and had no remarks on the Strahonja Report.

Booz Allen compared the activities assessed in the Rose Report and found that a substantial number of the activities were included in Booz Allen project activities. (See Attachment 2 for comparison of Rose Report with Booz Allen tasks.)

4. Standardized Forms

Standardized forms serve two purposes. First, the development of standardized process forms is a convenient methodology for identifying the data elements that are required for development of software for an automated case management system. Second, all computerized systems require standardization, including standardization of the core forms used. The Booz Allen team developed a three-step process that would satisfy both goals:

1. With assistance from judges in the pilot courts, the principal forms currently produced by the courts ("internal forms") together with several important forms used by third parties, such as plaintiffs and defendants ("external forms"), were identified.

2. These forms were analyzed for content, including mandatory information required for proper case tracking and reporting, and the data elements were defined.
3. A series of draft template forms were created to ensure that all data elements had been captured.

The draft forms were reviewed by judges in Rijeka and Split. At meetings of the full working group in October 2001, the judges reviewed and commented on each of the forms. (See Attachment 3 for list of forms.)

After the October 2001 meeting, Booz Allen continued to work with the pilot court liaisons to refine the standardized process forms and to incorporate the working group's comments. With the decision to proceed with the development of the system using a modular format (see Modules below), the standardized process forms never received final approval from the working group.

5. The Book of Rules

The project design recognized that it was important to identify court rules and regulations that hindered effective implementation of an automated case management and court administration system. Early in the project, Booz Allen began to analyze the Croatian Court Book of Rules and identify changes that would be needed for effective implementation of an automated case management and case administration system. Booz Allen recommendations were presented to a meeting of the working group in November 2001. (See Attachment 4 for recommended changes to Book of Rules.) Booz Allen worked on changes to the Book of Rules and included recommendations for changes in the modules submitted to the working group. The recommendations were included in the final submission of the modules to the PUM.

6. Baseline Data

The Booz Allen team collected baseline data from the Commercial Courts for analysis and to set benchmarks for measuring improvements in court performance. The data collection procedure was to select 50 sample cases for each of the 4 divisions of the pilot court for the years 1999 thru 2001. After the decision to integrate Booz Allen's model for the Commercial Court Administration and Case Management with that of NCSC (see discussion below on integrating the Booz Allen and NCSC models) and the MOJ's decision that any activity in the Commercial Courts must be with approval from Deputy Minister Kovac, the efforts to complete the baseline data and plans to engage a consultant to review and organize the statistical data were deferred.

7. Modules

When Booz Allen presented the standardized forms, data elements, flow charts, and recommendations for changes to the Book of Rules to the PMU/MOJ in December 2001, it was decided to present the information in modular form. (See Attachment 5 for summary of meeting.)

The agreement specified development of an automated system in 10 modules covering:

- Case Initiation, Indexing, and Register of Actions
- Scheduling and Calendaring
- Document Generation and Processing
- Hearings
- Case Disposition and Closure
- Enforcement of Court Orders
- File, Document, and Property Management
- Financial Functions (basic functionality relating to court fees)
- Security
- Management and Statistical Reporting.

Each of the 10 modules was presented to a meeting of the working group for comment and approval. The approved modules and supporting material were assembled into a two-volume book and delivered to the PMU/MOJ. (See Attachment 6 for modules transmittal letter.)

8. Functional Standards

Booz Allen worked closely with the NCSC project “Municipal Court Improvement Project in the Zagreb Municipal Court” to develop a set of functional standards to ensure that the two projects were complimentary. After NCSC and Booz Allen agreed on a common set of functional standards, the Booz Allen team customized the functional standards to capture the needs of the Commercial Courts and included them in the Book of Modules delivered to the PMU.

9. Project Implementation Plan

After extended discussion with the PMU about the need to properly coordinate and organize the court processes and practices developed and introduced by Booz Allen in its design of an automated system, it became apparent that the PMU intended to rely on Booz Allen to provide assistance in coordinating and organizing the processes and practices as a part of the development of operational procedures for implementing the software and equipment. Booz Allen and the PMU decided the best procedure for providing such assistance would be to develop a project implementation plan (See Attachment 7 for USAID letter defining terms of assistance.) A working team was organized consisting of John Sherman, a consultant to Booz Allen, a local consultant

hired by the PMU, and the Project Coordinator. The team prepared a project implementation plan, which gave the details for the development and implementation of the Booz Allen Commercial Court Administration and Case Management model.

10. Advisory Council

In the Economic and Institutional Reforms in Croatia Project, which ended with the beginning of the current Croatia Commercial Law Reform Project, Booz Allen worked with the High Commercial Court to organize a Commercial Court Advisory Council, to provide a forum for judges to develop ideas and share events, issues, or problems from their local courts. Each of the first instance 12 Commercial Courts plus the High Commercial Court appointed a representative to the Council.

The Council met quarterly in 2001 and during the first half of 2002. One of its principal activities was providing assistance in organizing the 4th Annual Conference of Commercial Court Judges held in Zadar in May 2002.

11. Integrating the Booz Allen and NCSC Models

During the World Bank's Supervision Mission to Croatia on 3-14 February 2003, the World Bank and the MOJ decided to integrate Booz Allen's Model for Commercial Court Administration and Case Management with the NCSC Zagreb Municipal Court model. Consequently, the submission of the Booz Allen modules for development of the case management system was the final input of Booz Allen into the development of the case management system. Booz Allen also completed the computer training that was planned for the Rijeka and Split Commercial Courts. (See Attachment 8 for action plan.)

B. TASK 2: LAND REGISTRY**Table 2. Land Registry and Cadastre: Table of Results**

Objectives	Deliverables	Results
Improve the efficiency of the Land Registry, reduce the backlog, and develop procedures for harmonization of land and cadastre records.	Improved land registration procedures	Modernization plans were presented to the MOJ and Zagreb LRO. However, a lack of cooperation in implementing procedures led USAID to terminate assistance. However, anecdotal evidence indicates that some of the proposed efficiencies have been adopted.
	Reduced backlog	Booz Allen hired temporary staff and with their help the following reductions were achieved: 1. Assistance with the reduction of backlog files: 5,120 resolutions typed; 4,600 Z file rejection resolutions prepared; assistance with the resolution of 53,550 Z files and 20,140 Zs files; resolutions prepared for the rejection of 1,185 Zs files; 1,874 land book registration entries made. 2. Creation of electronic index database for 359,300 parcels; electronic entry of 18,900 land book records (included 37,569 parcels and 11,980 apartments totaling about 10% of the total land book records) into the MOJ EDP Land Registry software; and electronic entry of 16,970 Z submissions.
	Efficient procedures	<i>A Manual for Data Conversion</i> and a <i>Manual for Shortcuts to be Applied During the Data Conversion Procedure</i> were delivered but not adopted.
	Harmonization of Land and Cadastre Records	The Istria Harmonization Project developed a methodology for cheaper, efficient harmonization. Final Report describing methodology was delivered to SGA and MOJ.

The LRO activities were begun under the earlier USAID Economic and Institutional Reforms in Croatia Project and continued under the Croatia Commercial Law Reform Project. The activities in the Croatia Commercial Law Reform Project covered seven areas of assistance:

1. Reduction of backlog files
2. Increased efficiency and streamlining of LRO procedures and operations
3. Development of forms
4. IT implementation and data conversion of paper records to electronic form
5. Training and education
6. Initiation of client support services and public education
8. Harmonization of land registry and cadastre records.

The Booz Allen team prepared and submitted to the LRO management a comprehensive Management Modernization Strategy Paper, which covered all aspects of modernizing the Zagreb LRO. The LRO management decided to not implement the plan, and in December 2002, USAID decided to suspend Zagreb land registry activities.

1. Reduction of Backlog Files

Booz Allen hired a temporary staff of seven data entry clerks and assigned them to the Zagreb LRO to input data into the digitalized land books. Their efforts resulted in the reduction of backlog files:

- 5,120 resolutions typed
- Resolutions prepared for the rejection of 4,600 Z files
- Assistance with the resolution of 53,550 Z files and 20,140 Zs files
- Resolutions prepared for the rejection of 1,185 Zs files
- 1,874 land book registration entries.

The team also assisted in creating an electronic index database for 359,300 parcels, electronic entry of 16,970 Z submissions, and electronic entry of 18,900 Land Book records into the MOJ EDP Land Registry software. Included are 37,569 parcels and 11,980 apartments, totaling about 10% of the total land book records.

2. Increased Efficiency and Streamlining of LRO Procedures and Operations

The Zagreb LRO required substantial change in current practices to achieve long-term efficiency. The Matrix of Modernization Activities (See Attachment 9 for Matrix.), which outlined the requirements of and the benefits from reorganization, was presented to Zagreb Municipal Court President Juro Sessa, Land Registry Judge Zivkovic, and Assistant Minister Olga Jelčić. The following activities were approved:

- Conducting registration of finalized files into land books
- Implementing an extract order, production, and mailing system
- Allowing limited independent access to land books by lawyers
- Extending client service hours and providing reduced service
- Locating funding for a second work shift and overtime pay
- Providing client advisory service in the waiting area
- Combining extract production with the conversion of land books
- Organizing special teams for systematic land book conversion
- Setting up special teams for resolving backlogs
- Conducting a public information campaign
- Enabling access to other information sources such as the police department, cadastre, and commercial court.

The approved activities implemented include—

- Installing personal computers for use by the Bar Association and the Chamber of Notaries in the LRO, giving the two organizations EDP access. Booz Allen provided training and monitoring for the computers.
- Establishing intranet connection between the Zagreb LRO and the cadastral database.
- Preparing written procedures for an extract production and ordering system at the Zagreb LRO in a chart organizing the staff by either geography or function.

3. Development of Forms

The Booz Allen team developed numerous forms to introduce standardized formats in the Zagreb LRO, which would facilitate processing times by reducing errors and would be more user friendly. Further, the forms were designed in anticipation of future imaging systems, which would allow online access to the collection of documents.

Administrative forms introduced during the Project include standardizing resolution forms and forms to expedite other administrative processes. Booz Allen created an “Instruction List” form (Form 11) to reduce the number of incomplete and incorrect submissions from clients. (See Attachment 10 for a list of the forms.)

4. IT Implementation and Data Conversion of Paper Records to Electronic Form

In October 2001, 50 workstations were installed at the Zagreb LRO with assistance from the Booz Allen team. Booz Allen organized and presented IT-related training sessions dealing with the Z submission database application, land registration application, file management, and electronic forms.

Strategy documents on IT implementation and a land book data conversion strategy were prepared and submitted to LRO management for discussion and implementation. (See Attachments 11-1, 11-2, and 11-3.)

The Booz Allen team conducted electronic conversion of the land books for a number of municipalities in Zagreb. LRO management permitted off-hour access to the land books. No previous procedures for data conversion had been produced prior to Booz Allen’s commencement of this activity. During the conversion of more than 37,000 parcels and more than 11,000 apartments, the Booz Allen team developed many practical procedures and rules for conversion and provided input to the software developer IGEA for improvements. The Booz Allen team produced two important documents a *Manual for Data Conversion* and a *Manual for Shortcuts in the Data Conversion Process*. These documents were the first of their kind in Croatia and will be invaluable in future data conversion tasks.

5. Training and Education

The Booz Allen team distributed a survey on management styles and general management techniques to the LRO staff. An analysis of the survey revealed that the staff was not supportive of management and did not have much understanding of management procedures and styles. The Booz Allen team contacted a local Croatian firm, Iveković Savjetovanja Ltd., and arranged for it to conduct a Leadership/Management Workshop for Zagreb LRO judges and senior clerks. (See Attachment 12 for workshop agenda.)

Other training included –

- A presentation to administrative staff on registration procedures and new procedures and forms
- A training program for typists on how to prepare appeal documentation
- A workshop for legal professionals with presentations about the Zagreb LRO by the head judge and the registrar.

6. Initiation of Client Support Services and Public Education

Booz Allen produced and made available for distribution two information registration brochures for clients that outlined the required procedures, documents, and fees for registration. One brochure, *List of Required Documents for Registration of Real Property Rights (Z)*, (See Attachment 13 for brochure.) gave the information for regular property registration procedures. The other brochure, *List of Required Documents for Apartment (Zs) Registration*, (See Attachment 14 for brochure.) gave the information for apartment registration. A strategy document was also produced for LRO management that outlined the various considerations for a public education campaign on LRO services and process changes.

7. Harmonization of Land Registry and Cadastre Records

The objective of the Istria Harmonization Project was to find cost-effective and efficient methods for harmonizing land and cadastre records. The Municipality of Barban, the Pula County Cadastre Office, the Pula Municipal Court, and the State Geodetic Administration participated in the project. The World Bank's Project Implementation Unit of the Real Estate Registration and Cadastre Project was kept fully informed of the project's activities and its conclusions.

The methodology developed by the project for updating cadastre records is intended to replace the expensive field survey of parcels, which is currently in use in Croatia. Booz Allen and its subcontractors determined the cost of harmonizing the land and cadastre records using the project methodology. The report that came out of the Istria Harmonization Project demonstrates a substantial savings in harmonizing the land and cadastre records for the 1,500 parcels in the project.

C. TASK 3: COLLATERAL REGISTRY

Table 3. Collateral Registry: Table Of Results

Objectives	Deliverables	Results
A centralized collateral registry and a new law to implement a registry	Draft of a collateral registry law	After delivery to MOJ, MOJ decided to accept assistance from another donor
	Financing and location of a collateral registry	Never finalized because of MOJ decision to transfer project to another donor

The project activities in the collateral registry were a continuation of activities that were started under the USAID Economic and Institutional Reforms in Croatia Project. At the request of the Assistant Minister of Justice, Booz Allen drafted a collateral registry law. The draft law was reviewed by the Collateral Registry Working Group appointed by the MOJ, and their comments were incorporated in a final draft of a collateral registry law that was submitted to Assistant Minister Jelcic. (See Attachment 15 for draft law.)

An MOJ study group traveled to Norway to view collateral registry and registration activities. During the study tour, the Norwegian Registry Development, a private company, repeated its earlier offer to provide funding to finalize the Booz Allen draft on the collateral registry law, and the MOJ decided to accept the offer. Assistant Minister Jelcic requested that a Booz Allen representative continue to work with the Collateral Registry Working Group and called for Booz Allen to provide training after the Sabor passed a law on a collateral registry.

The issue of a collateral registry was raised at various meetings with the Croatian Banking Association. The MOJ and the Croatian business community were apathetic on the subject of a collateral registry, so Booz Allen and USAID decided that the timing was not right and to wait until there was some expression of interest in a collateral registry by the Croatians.

D. TASK 4: COMPANY REGISTRY**Table 4. Company Registry: Table Of Results**

Objectives	Deliverables	Results
A smooth and efficient company registry that would contribute to the development of a modern free-market economy		A general lack of cooperation from the Zagreb Commercial Court and High Commercial Court prevented any activity until later in the project
	Digitalization and microfilming for the Zagreb Company Registry Archive Report	Decision by Deputy Minister of Justice that all activity in the courts required his approval prevented implementation of planned activities

At a November 2001 meeting, the President of the Zagreb Commercial Court described difficulties that the Court was having with the installation of hardware and software for archiving the court's records. Booz Allen arranged with the Zagreb Commercial Court to develop recommendations for organizing the Court's archives and digitizing the files. Following an extensive review of the archives and company registry files, Booz Allen developed an overall plan for archiving and digitizing the company registry files.

Booz Allen proposed the development of a locator index for the archives, but as work on the locator index developed, the work expanded to include digitization and scanning the company registry archives, including unpacking and installing the unused equipment. A detailed report on the digitization and microfilming of archive records was prepared. A local consultant was asked to prepare a functional description of the digitalization and microfilming for the Zagreb company registry archive for use in obtaining bids on the development of the software. Booz Allen's findings, conclusions, and recommendations for digitalizing and microfilming the Zagreb company registry archives were presented to the MOJ, Zagreb Commercial Court, High Commercial Court, and the State Archives and were accepted.

A draft contract for developing the necessary software was prepared and companies contacted for the bidding process. The court finished the installation of the digitization and microfilming equipment and started to use the equipment.

Responding to a request by a registry judge to organize a seminar on company registration procedures in the recently enacted Company Law, Booz Allen met with the president of the High Commercial Court. He supported the idea, and Booz Allen worked with judges from the High Commercial Court to organize the seminar. Twenty-eight judges attended seminar.

E. TASK 5: ALTERNATIVE DISPUTE RESOLUTION (ADR)

Table 5. Alternative Dispute Resolution: Table Of Results

Objectives	Deliverables	Results
Increase usage of ADR in the commercial courts	Detailed report and recommendations	Ostermeyer Report, <i>Croatia Commercial Courts ADR Assessment & Proposed Action Plan</i> (See Attachment 16)
	A program to introduce mediation as an alternative to litigation	<ol style="list-style-type: none"> 1. A series of roundtables created an awareness of mediation 2. Existing mediation service centers at the Chamber of Economy improved and new ones were developed at the Chamber of Trades and Crafts and the Croatian Bar Association 3. One-hundred individuals were trained as mediators 4. A new mediation law improved chances for mediation and encouraged judges to refer cases for mediation 5. A series of forms were developed for use by mediation service centers and the courts for referral of cases 6. Four cases were successfully mediated 7. A Croatian Association of Mediators was established. 8. A Train the Trainers program trained 10 individuals who will provide ongoing training through the Association of Mediators
	Public education and awareness building and consensus building	Roundtables, a series of articles in newspapers and magazines, and presentations to local organizations such as the Croatian Banker Association, Lawyers in the Economy, and American Chamber of Commerce in Croatia created substantial interest in mediation
	Coordination with other USAID provided assistance	Collaborated with donor working on labor mediation and with ABA/CEELI who conducted a series of workshops for attorneys

ADR is not new to Croatia. The Permanent Court of Arbitration at the Croatian Chamber of Economy (CCOC) has been active since 1965, with the Court sponsoring an annual 2-day ADR conference in early December. The Chamber of Economy had also established a conciliation center but it was not active.

Booz Allen Consultant Ms. Melinda Ostermeyer arrived in the summer of 2001 to assess and report on ADR in Croatia. Her findings confirmed that arbitration is not popular, that mediation did not exist, and that there was no settlement culture in the courts or in the Bar. (See Attachment 16 for report.)

As Booz Allen began working with Ms. Ostermeyer to implement her recommendations, she was forced to terminate her activities with Booz Allen for personal reasons. Booz Allen turned to Carr Swanson & Randolph, a consulting firm in Washington, DC. It immediately began working to establish mediation activities in Croatia.

1. Roundtables

To build public awareness and generate momentum for mediation as an alternative to litigation, a series of roundtables were held in Pula, Rijeka, Opatija, and Zagreb. The topics at the Pula and Rijeka roundtables covered court-annexed mediation and commercial mediation. (See Attachments 17-1 and 17-2 for agendas.) The topics at the Opatija and Zagreb roundtables were focused on the business community. (See Attachments 18-1 and 18-2 for agendas.)

2. Training

The next step in the program to build mediation in Croatia was a training program for those interested in becoming mediators. The program designed by Carr Swanson & Randolph included a Beginning Mediation Training course, an Advanced Mediation Training course, and a Practicum. As a result of the overwhelming response when the plans to offer the ADR courses were announced, Booz Allen extended the training from one series to three held during May, June, and July. Another series of Beginning Mediation Training, Advanced Mediation Training, and a 2-day Practicum were held in October and November. Approximately 100 Croatians received 56 hours of training in mediation skills and principles and are now qualified to conduct mediations.

The training sessions covered lectures, discussion groups, and role-plays and were highly interactive. The training started with a focus on the general principles and different styles of mediation and moved into the more specific topics such as the opening session, caucuses, drafting the mediation agreement, settlement agreements, and mediator ethics. The trainers monitored and critiqued the participants in discussions and role-plays throughout the workshops. (See Attachments 19-1 and 19-2 for agendas.) The Practicum involved role-play and each individual mediated in a role-play. The program was designed so that the participants could go through all the steps of mediation without interference by the trainers. At the end of the 1.5-hour role-play, the trainer who observed the process critiqued the mediator.

Ten of the participants were selected to attend an additional week of training at Judicial Arbitration and Mediation Services, Inc. (JAMS), an American mediation center in Los Angeles. During this week of training, they attended a seminar by a noted American mediator and observed actual mediations at the JAMS Center.

After returning to Croatia, these 10 members participated in a beginning and advanced Train the Trainer course led by Carr Swanson & Randolph (See Attachment 20 for agenda.) The beginning training focused on lectures and role-play. In the advanced training, the participants became the trainers and conducted a mediation training seminar using volunteer participants. Carr Swanson & Randolph then critiqued the practicing trainers.

3. Mediation Service Centers

Mediation centers needed to be established in Croatia for ADR to become a viable option to litigation for those seeking assistance in disputes. The Croatian Employers' Association (HUP) had expressed an interest in developing a mediation center and the CCOE had a mediation center that was not well organized and did not function. Booz Allen brought Mr. Neal Blacker, the executive director of the Los Angeles County Bar Association Dispute Resolution Service, Inc., to Croatia for a week to work with the two organizations. Mr. Blacker spent a week training representatives of HUP and CCOE in the organization and operation of mediation service centers.

As interest in mediation expanded, the Chamber of Trades and Craft and Croatian Bar Association each committed to organizing a mediation service center within its organization. Mr. Blacker returned in October 2003 and spent a week training representatives of the Chamber of Trades and Crafts and the Croatian Bar Association in the organization and operation of mediation service centers.

The CCOE's center is functional and has held three mediations. The Croatian Chamber of Trades and Crafts' center is in the process of becoming operational and has had one mediation. The HUP mediation center has not yet become operational.

In March 2004, Booz Allen consultants spent 7 days working with the Croatian Bar Association, helping them develop forms and procedures for mediation. This resulted in the Croatian Bar Association's creation of a program plan and the necessary forms for the operation of a mediation service center. In addition, consultants also worked with the Croatian Bar Association, and three judges from the High Commercial Court and the Zagreb Commercial Court to develop the forms and procedures for a court referral program. (See Attachment 21 for a list of forms.)

4. Croatian Association of Mediators

A Croatian Association of Mediators has been organized and is functional, with a managing board and a supervisory board both meeting regularly. With Booz Allen's support, the Association has held several meetings and a seminar for its members, established a membership fee of 100 K, and published a newsletter. The Association now has more than 30 members and has every indication that it is a sustainable organization.

5. Mediations

Booz Allen devoted substantial effort to finding cases for referral to the mediation service center. It met and discussed the benefits of mediation with a number of individuals, businesses, and organizations and encouraged them to refer cases for mediation. Frequently the meeting ended with the individual or business indicating plans to search for cases that could be referred.

Booz Allen met several times with representatives of Croatian Insurance and Sunce Insurance and discussed the benefits of mediation with them. Sunce Insurance referred a case to the Chamber of Trades and Crafts that was successfully mediated. Croatian Insurance referred a case to the CCOE that was successfully mediated and intends to refer more cases. Croatian Insurance has become an advocate for mediation in the insurance industry, with the president and the head of the claims department having spoken at meetings in support of mediation. Both the Croatian Insurance and Sunce Insurance cases used mediators who had completed the Booz Allen/Carr Swanson & Randolph training.

6. Mediation Law

In October 2002, a new mediation law modeled on the United Nations Commission on International Trade Law (UNCITRAL) model law for mediation became effective. Booz Allen commented on the law when it was in the draft stage and believes that the extensive public relations campaign and newspaper articles orchestrated by Booz Allen played a major role in activating public interest and developing support for the law. Booz Allen's public relations activities helped to convince organizations such as the CCOE and the Croatian Employers' Association to support enactment of the law.

The law contains a specific provision allowing a judge to recommend mediation to the parties. This provision has motivated the High Commercial Court to encourage the Croatian Bar Association to organize a mediation service center so that the court could refer cases for mediation. The Court has also encouraged the CCOE to accept cases for referral. Booz Allen discussed referral with the Zagreb Municipal Court and met with the American Bar Association/Central and East European Law Initiative (ABA/CEELI) who will follow up with the Zagreb Municipal Court and its request to present a program on mediation to its judges.

7. Public Relations

Booz Allen contracted with Momentum, a Croatian public relations firm, to handle public relations and media events for mediation. More than 12 articles about mediation have appeared in newspapers and magazines. These articles usually gave a description of mediation and its benefits and often included interviews with Booz Allen staff, consultants, and individuals who had completed a mediation. (See Attachment 22 for

representative articles.) Several of the individuals trained as mediators have spoken at meetings and appeared on radio programs to discuss mediation and its benefits.

Each of the 100 mediators trained by Booz Allen and Carr Swanson & Randolph are advocates of mediation with business associates. Several of them have spoken at programs about mediation. Mr. Borna Ljubicic, one of the mediators, has been a guest on radio shows advocating mediation.

The level of publicity and the enthusiasm of the individuals trained as mediators, contributed significantly to raising public awareness of mediation and its benefits. When Booz Allen began the roundtables in December 2002, there was a vague interest in mediation. At the conclusion of the overall Project, there was a greater awareness and a better understanding of the principles and benefits of mediation.

8. Court-Annexed Mediation

At the start of the project, the focus was on court-annexed mediation. However, when the Deputy Minister of Justice took a strong position against a court-annexed mediation program, Booz Allen looked for other ways to develop a sustainable mediation program with which the courts would be comfortable. As a result of the “no court-annexed mediation edict” Booz Allen focused on and used the term “commercial mediation” in its training and public relations. The president of the High Commercial Court and the president of the Rijeka Commercial Court attended the early roundtables and were vocal supporters of mediation and court-annexed mediation. As Booz Allen began the commercial mediation training, the president of the High Commercial Court encouraged judges to attend the commercial mediation training. Approximately 16 High Commercial Court and first instance commercial court judges completed the beginning and advanced training seminars and practicum. Many of them have become supporters of mediation. The president of the High Commercial Court encouraged the Croatian Bar Association to organize a mediation center so that cases could be referred and was active in encouraging the Chamber of Trades and Crafts to organize a mediation center.

Although not court-annexed mediation in the classic sense, the referral of cases by the courts accomplishes the same result, i.e., settlement of a pending case. The combination of the training, the new law, and the support by the president of the High Commercial Court have in effect given Croatia court-annexed mediation.

F. TASK 6: ENFORCEMENT

Table 6. Enforcement: Table Of Results

Objectives	Deliverables	Results
Develop programs to remove or reduce impediments to enforcement of obligations	Report on ways to streamline enforcement process	Bayne Report, <i>Croatia Commercial Courts: Enforcement of Judgments & Proposed Action Plan</i>
	Develop means by which appeal on procedural matters can be expedited	Limited discussion with the courts because of a requirement to obtain consent from Deputy Minister before going into courts
		Focused on developing agents for change in the business community
		Series of programs for the business community and Bar to build awareness
		Focus on “self-help procedures” with attention to improved credit practices, debt management, and debt collection

A consultant to Booz Allen assessed enforcement activities and prepared a report on his findings and conclusions. (See Attachment 23 for report.) Mr. Bayne recommended increased use of sanctions; the creation of a bailiff’s bureau; training for attorneys, judges, and court staff; and a bench book for commercial court judges. His report was given to a Croatian attorney for review and comment on the report’s recommendations. She gave a favorable response and found that most of the recommendations could be implemented.

Booz Allen sought a strategy that would contribute to enforcement efforts and reduce the pressure on the courts without requiring significant interaction with the courts. Believing that the private sector should be a champion for change and be instrumental in bringing about change, Booz Allen settled on a strategy that involved working with businessmen and local organizations to mobilize private sector interest in enforcement solutions and to get their support for changes in the enforcement procedures in the courts. This strategy involved meeting with local businessmen and organizing a series of presentations on enforcement.

In meetings with judges, court staff, and businessmen, it became apparent that many businesses were using the courts as a collection agency or debt management institution rather than pursuing normal credit and collection procedures before filing a claim in court. Working with a local private collection agency, a brochure and materials on credit information were prepared and mailed to 5,000 businesses. The goal of the mailing was to leave behind a tangible piece of information that would educate a large number of private sector enterprises about their own ability to improve their collection

of commercial obligations through the use of credit information and better collection techniques.

Booz Allen worked closely with the American Chamber of Commerce in Croatia and jointly sponsored an ongoing series of programs to identify and address problems hindering the ability of the private sector to enforce commercial obligations, whether through their own efforts or through the Croatian court system.

G. TASK 7: LEGAL INFORMATION SYSTEMS

Table 7. Legal Information Systems: Table Of Results

Objectives	Deliverables	Results
Greater dissemination of court decisions, government regulations, and online legal articles and other matters of interest	Examine ways to expand online information	Assessment by legal information specialist Thaddeus Bejnar concluded that programs in place or planned would give sufficient access to legal information
	Coordinate with and build upon the work in process	Ongoing coordination with T.M.C. Asser Institute. Efforts to cooperate with Judge's Web did not develop because of issues related to license fees and failure to provide sufficient information
	Publication of governmental decisions, conclusions, and rulings	Investigation by legal information specialist Thaddeus Bejnar established no interest in access to government decisions or rulings

Booz Allen retained legal information specialist Thaddeus Bejnar to analyze the market for legal information, including both the local demand and the ability of local enterprises to meet that demand. Mr. Bejnar found that most of the demand was being met by the various information providers, e.g., Intellectio Ijuris, Ing Bureau, and SPAN, a software company that developed a database of opinions for the Zagreb County Court. Mr. Bejnar also determined that there was no interest by either the government or the courts in developing a database of government regulations.

Before the start of the Booz Allen project, the European Union (EU) had financed a major project for the development of a Supreme Court database of opinions. The T.M.C. Asser Institute in The Netherlands was working with the Supreme Court to develop the database that would include opinions from all of the courts in Croatia. Booz Allen met with the T.M.C. Asser Institute from time to time and followed the development of the EU's Supreme Court database project.

One of the private initiatives was the Judges' Web. Although still in the initial stages, the Judges' Web planned a database of municipal and county court decisions from cooperating judges. In addition to the court decisions, the Judges' Web was to have general information of interest to the public, such as locations for the 135 courts in Croatia and the 77 states' attorney offices.

Booz Allen worked with the principal in the Judges' Web in an effort to arrive at an agreement to support expanded offerings. After further discussion with the Judges' Web principal about a number of issues, including funding from other sources, it became apparent that there were too many unexplained issues, and Booz Allen terminated discussions with the Judges' Web principal.

After reviewing the general environment and activities in the area of legal information, USAID and Booz Allen agreed that because there were other projects, both private and government financed, to develop legal databases, Booz Allen should take a support role and be available to address gaps that were not being addressed by the other projects.

H. TASK 8: TRAINING AND PUBLIC INFORMATION

Table 8. Training And Public Education: Table Of Results

Objectives	Deliverables	Results
A program for training and public education for the other seven tasks		See the other tasks. Public awareness and training in ADR very successful. There were extensive training and efforts to develop public awareness in the land registry task. Seminars and programs increased awareness of enforcement issues and focused on developing agents for change.

Overall there was significant training and public information. The above discussion for each of the tasks covers training and public relations as they relate to that particular topic.

1. ADR

The ADR public information and training substantially exceeded the public information and training in the other tasks. One reason for the success was the nature of the activity. Booz Allen was able to work with counterparts who were interested in advancing ADR and were therefore willing to participate fully. After the first several articles appeared in newspapers and magazines, the topic began to generate interest of its own accord. Furthermore, those who participated in the mediation training were advocates and actively helped to develop public awareness of the benefits of mediation.

Brochures explaining mediation were prepared and distributed at meetings and whenever the opportunity arose.

(See Attachments 24-1A and 24-1B, and 24-2A and 24-2B for brochures.)

2. Commercial Courts

The International Development Law Organization (IDLO) conducted an extensive survey of Commercial Court judges with the intent of developing a training program that would satisfy their requirements. Early efforts at establishing a training program were frustrated by a lack of support from the MOJ and from the High Commercial Court, and an early workplan for training was never accepted by the High Commercial Court. (See Attachments 25-1 and 25-2 for report and proposed training plan.)

With support from the MOJ, Booz Allen provided computer training to Commercial Court judges at the Rijeka and Split Commercial Courts. This training was conducted by local companies, which were Microsoft certified to teach computer skills. (See Attachments 26 and 27 for training program plans.) The training was successful, well

received, and accomplished its purpose, i.e., gave the judges a basic level of computer knowledge and skill.

Presidents from the case management pilot courts and the judges who were members of the MOJ's Working Group went to The Netherlands and Italy to observe their respective case management and court administration systems.

Booz Allen was able to do limited training for Commercial Court judges. Booz Allen supported the fourth and fifth Annual Conferences of Commercial Court judges that were primarily seminars on topics of interest to the Commercial Courts. The fourth conference had a variety of topics including bankruptcy. The topics at the fifth conference were the new company law and the new civil procedure law.

At the request of Commercial Court judges, Booz Allen organized a series of seminars on Reading and Understanding Financial Statements. These seminars, held in five locations, covered basic techniques and were conducted by a Croatian accounting firm with training experience. The seminars were primarily for bankruptcy judges. (See Attachment 28 for report.) At the request of a Commercial Court judge, Booz Allen also helped the High Commercial Court organize a seminar on the new company law for company registrar judges. Because both topics were requested by judges, they were supported by the Commercial Court and well received by the judges.

LIST OF ATTACHMENTS

- Attachment 1: Draft – Planned Design Activities for a Manual Case Management System
- Attachment 2: Comparison of Rose Report with Booz Allen Tasks
- Attachment 3: List of Forms
- Attachment 4: Recommended Changes to Book of Rules
- Attachment 5: Summary of Meeting, 30 April 2002
- Attachment 6: Transmittal Letter – Modules
- Attachment 7: USAID Letter Defining Terms of Assistance
- Attachment 8: Agreements Reached with the Ministry of Justice of Croatia on Further Implementation of the World Bank Court and Bankruptcy Administration Project
- Attachment 9: Matrix of Modernization Activities
- Attachment 10: List of Forms for LRO
- Attachment 11-1 Implementation Plan (draft version 1.0) Data Conversion and Use of Electronic Land Books
- Attachment 11-2 Zagreb Land Registry Office – IT System Maintenance
- Attachment 11-3 Zagreb Municipal Court Land Registry Office System-Administrative Manual
- Attachment 12: Leadership Development Workshop I
- Attachment 13: Land Registry Brochure
- Attachment 14: Land Registry Brochure
- Attachment 15: Draft Collateral Registry Law
- Attachment 16: Croatia Commercial Courts ADR Assessment and Proposed Action Plan
- Attachment 17-1: Roundtable in Developing Commercial/Court-Annexed ADR Programs in Croatia; Pula, Croatia
- Attachment 17-2: Roundtable in Developing Commercial/Court-Annexed ADR Programs in Croatia; Rijeka, Croatia
- Attachment 18-1: Roundtable on Developing Commercial ADR Programs in Croatia; Opatija, Croatia
- Attachment 18-2: Roundtable on Developing Commercial ADR Programs in Zagreb, Croatia
- Attachment 19-1: Agenda for Basic Mediation Training
- Attachment 19-2: Advanced Mediation Training
- Attachment 20: Train the Trainer Course
- Attachment 21: List of Forms; Carr Swanson & Randolph; Croatian Bar Association and Commercial Court Judges
- Attachment 22: Representative Newspaper Articles
- Attachment 23: Croatian Commercial Courts Enforcement of Judgments & Proposed Action Plan, December 2001

Attachment 24-1a & 1b: Brochure – Ten Questions

Attachment 24-2a & 2b: Brochure – Why Mediate?

Attachment 24-3a & 3b: Brochure – Mediate/Litigate

Attachment 25-1: Report on Training Survey for Commercial Courts of Croatia

Attachment 25-2: Proposed Training Plan

Attachment 26: Commercial Court in Rijeka

Attachment 27: Split Computer Training for Judges

Attachment 28: Report on Reading and Understanding Financial Statements

**Attachment 1:
Draft—Planned Design
Activities for a Manual Case
Management System**

ATTACHEMENT 1

DRAFT

PLANNED DESIGN ACTIVITIES FOR A MANUAL CASE MANAGEMENT SYSTEM

I. OBJECTIVE

To set out in detail the assumptions, design activities, and recommendations for a manual case management system designed by Booz Allen & Hamilton Inc. (“BAH”).

II. ASSUMPTIONS

1. The defined functional areas of the Commercial Courts for the Republic of Croatia are commercial dispute, execution, bankruptcy and company registry. The Booz Allen & Hamilton Task Order Technical Proposal RFP Task 4 covers the company registry in Zagreb. Therefore, the planned activities for designing a manual case management system will focus on commercial dispute, execution and bankruptcy. Where reasonable and for a more integrated manual case management system, comments or suggestions will be made on company registry in the two pilot courts if the design team deems them relevant.
2. All activities set forth below are consistent with the scope of work as defined in the Task Order Technical Proposal RFP Task 1.
3. Although 6 pilot courts are specified in the Booz Allen & Hamilton Task Order Technical Proposal RFP Task 1, the current document and defined activities will focus on 2 pilot courts, Rijeka and Split, and references to pilot courts will be to Rijeka and Split unless otherwise stated.
4. BAH will design a manual case management system that will cover forms, filing materials, and non-technological equipment that may be different from existing forms, filing material and non-technological equipment¹. It will be assumed that the Ministry of Justice (“MOJ”) will be able to arrange for the required forms, filing material and non-technological equipment when needed. If the MOJ does not provide the redesigned forms, filing material and non-technological equipment, training and other activities relying on the forms, filing material or non-technological equipment will be delayed.
5. BAH understands that case management software, bankruptcy software, human resources software, budgeting software and possibly other software exists or is in the planning stages. The design for the manual case management system will not recognize nor incorporate any existing or planned software.
6. BAH discussions with the MOJ on budgeting and human resources indicated that there is some degree of uncertainty whether such software is to be developed for the judicial system or whether the judicial system will use software developed for government-wide use.
7. Recommendations for changes in Court Rules Book and Croatian laws will be given to the MOJ. The MOJ will provide for drafting the required changes and provide the legislative management required to move the recommendations through Sabor.

¹ Non-technological equipment would include such items as filing cabinets, book shelves, etc.

8. Specific training on the manual case management system or any testing of the recommended changes cannot be undertaken until either the MOJ mandates such training and testing or the regulations and laws are changed so that the recommended manual case management system can be tested.
9. Preparation of detailed manuals and training on subjects in the detailed manuals will be dependent on changing the Court Rules Book and Croatian laws to include the recommendations given to the MOJ.
10. New budget software is currently installed in Rijeka and installation of new human resources software is planned. BAH understands that such software is or will be installed in the other pilot courts. Therefore, no particular recommendations on budgeting or human resources will be included.
11. The manual case management system will not include Random Case Assignment of Judges, Records and Exhibit Locator, or Attorney Data Base for generating forms, mailings, etc.

III. PRELIMINARY & CONTINUING ACTIVITIES

1. Document and analyze current court operations in the three functional areas by gathering baseline line data in Rijeka, Split, High Commercial Court and Zagreb Commercial Court for the purpose of determining current activities consistent with Court Rules Book and Croatian Law. (Note: Rijeka and High Commercial Court are completed and we are discussing with the Zagreb Commercial Court the details for gathering the information.)
2. Review and document existing records management, archiving practices and current filing systems for the purpose of developing recommendations for a model filing system and achieving procedures (Note: Rijeka is completed.)
3. Document existing pilot court organizational structures and current job descriptions. (Note: Rijeka is completed. The Zagreb court organizational structure is completed)

IV. CASE MANAGEMENT

Target Completion Date September 30, 2001

Design a manual case management system for a commercial court to determine where and how efficiencies can be obtained. The designed events will cover intake, docketing, records, and functions in judge's chambers:

1. Commercial Dispute Events

- A. Intake: Activities will include but may be expanded if determined necessary to the event:
 - i. Receipt of documents from the attorney including cover sheet, pleadings, summons, exhibits,
 - ii. Fee verification
 - iii. Case number assigned
 - iv. Judge assignment
 - v. Case folder created
- B. Docketing
 - i. Logging of all documents received, i.e., maintenance of indices
 - ii. Docketing Sheet prepared and maintained
 - iii. Index cards prepared (3 cards, i.e., case number order, plaintiff order and defendant order)
 - iv. Notification to assigned judge

- v. Defendant's pleading monitor for response or lack of response
- C. Records
 - i. Judge notification
- D. Judges Chamber Activities
 - i. Pleadings
 - ii. Hearings
 - iii. Noticing to parties and to court administration office for docketing
 - iv. Trial
 - v. Decision
- E. Archiving

2. Execution Events

- A. Intake
 - i. Receipt of documents from the attorney including cover sheet, pleadings, summons, exhibits,
 - ii. Fee verification
 - iii. Case number assigned
 - iv. Judge assignment
 - v. Case folder created
- B. Judicial review and ruling that all required documentation is present
- C. Defendant's answer
- D. Docketing
 - i. Logging of all documents received, i.e., maintenance of indices
 - ii. Docketing Sheet prepared and maintained
 - iii. Index cards prepared (3 cards, i.e., case number order, plaintiff order and defendant order)
- E. Court Decision
 - i. Court Administration
 - ii. Notices to parties
- F. Enforcement or filed for dispute and records forwarded for commercial dispute

3. Bankruptcy Events

- A. Intake: Activities will include but may be expanded if determined necessary to the activity:
 - i. Receipt of documents from the attorney including cover sheet, pleadings, summons, exhibits,
 - ii. Fee verification
 - iii. Case number assigned
 - iv. Judge assignment
 - v. Case folder created
- B. Docketing
 - i. Logging of all documents received, i.e., maintenance of indices
 - ii. Docketing Sheet prepared and maintained
 - iii. Index cards prepared (3 cards, i.e., case number order, creditor order and debtor order)
 - iv. Notification to assigned judge
 - v. Defendant's pleading monitor for response or lack of response
- C. Records
 - i. Judge notification

D. Judges Chamber Activities

- i. Pleadings
- ii. Hearings
- iii. Noticing to parties and to court administration office for docketing
- iv. Assignment of trustee
- iv. Hearings
- v. Trustee's final report
- vi. Decision

E. Archiving

V. SPLIT VALIDATION

Target Completion Date October 31, 2001

1. BAH will review the forms and input and output flow charts with the Split Commercial Court judges and court personnel for missing data elements and general compatibility.
2. BAH will revise and re-validate forms and input & output flow charts after the above review.

VI. TRAINING

Target Start Date: October 1, 2001: Target Completion Date: December 31, 2001

BAH will organize training for judges and court staff that will focus on general principles and practices. Training may include Customer Service, Time Management, Principles of Court Administration, Computer Basics, and Filing and Records Management. Other courses may be included as training develops.

VII. ACTIVITIES ANCILLARY TO CASE MANAGEMENT

1. Filing and records management: Target Completion Date: September 30, 2001
2. Archiving: Target Completion Date: December 31, 2001

VII. Output

Target Completion Date: December 31, 2001

1. BAH will provide the MOJ a set of forms and input and output flow charts designed to accomplish the above events.
2. BAH will provide MOJ a list of major changes to Court Rules Book and Croatian laws that will be required for achieving the manual case management system model.
3. Where possible, BAH will recommend structural changes and documentation for follow on software development.

Approved:

United States Agency for International Development

By _____

Date

Approved:

Ministry of Justice, Administration and Local Self-Government

By _____

Date

Approved:

Booz Allen & Hamilton Inc.

By _____

Date

Attachment 2:
Comparison of Rose Report with
Booz Allen Tasks

ATTACHMENT 2

COMPARISON OF ROSE REPORT WITH BOOZ ALLEN TASKS

ROSE REPORT ISSUES		BAH ACTIVITIES
Delays in Litigation (pp 7-8) Encouraging Arbitration (p. 45)		ADR Assessment by int'l consultant with recommendations. Proposed pilot court project with roundtable and business community participation (Task 5)
Accountability & Control; Court Management (pp 13-15, 31,32, 33)		Proposed Workplan for Training includes topics on planning, time management, Customer service (Task 1)
Case Management (p. 19)		Technical assistance in designing case management system (Task 1)
Enforcement (pp. 12-13) Improving the Enforcement Process (p. 46)		Assessment by int'l consultant with recommendations and action plan (Task 6)
Training in Court Management (p. 16)		Developed a workplan/ schedule for training judges and staff (Tasks 1,7)
Court specific statistics pp. 4& 5)		BAH is collecting data on case filings in the 6 pilot courts for 1999, 2000 & 2001 automated (Task 1)
Measuring court performance (p.34)		Part of the BAH technical assistance program in design of Case Management System; see also Court specific statistics (Task 1)
Case Assignment (p. 21)		Part of the BAH technical assistance in design of Case Management System (Task 1)
Improved Case Flow Management System (p. 40)		BAH technical assistance in designing Case Management System (Task 1)
External Communications		BAH surveys judges, lawyers, court staff and public as part of its pilot court activities; designed brochures on court procedures for distribution in Rijeka (Tasks 1,5, 8)

Attachment 3: List of Forms

ATTACHMENT 3

LIST OF FORMS

STANDARD ATTORNEY FORM
PLEADING
POWER OF ATTORNEY
SUMMONS FOR THE DEFENDANT TO RESPOND TO THE PLAINTIFF'S CLAIM
PROCEDURE FOR COMPLETING CASE COVER SHEET
ORDER TO APPEAR
SUMMONS FOR THE TRIAL
MINUTES
DECISION / ORDER
DECISION (CLAIMANT ORDERED TO PAY COURT COST OF BK CASE)
COVER LETTER – APPEAL
SUMMONS FOR THE TRIAL (VALUE OVER 200,000 KUNA)
SUMMONS FOR THE TRIAL (VALUE UP TO 200 000 KUNA)
COMPANY REGISTRY DATA SHEET
PENDING MOTION REPORT
CALENDAR
NOTICE OF BANKRUPTCY (NATIONAL GAZETTE)
INDEX CARD
DOCKET SHEET
NOTICE FAILURE TO APPEAR IN COURT
DELIVERY OF COURT DOCUMENT TO A PERSON IN A FOREIGN COUNTRY
V E R D I C T
APPOINTMENT OF ATTORNEY FOR FOREIGN PARTY
CLOSING A CASE
LETTER TO A COURT IN A FOREIGN COUNTRY
NOTICE OF LAWSUIT REQUEST FOR WAIVER OF SERVICE OF SUMMONS
NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE OF SUMMONS

**Attachment 4:
Recommended Changes to
Book of Rules**

ATTACHMENT 4
RECOMMENDED CHANGES TO BOOK OF RULES



**PRIJEDLOG PROMJENA
SUDSKOG POSLOVNIKA**

**CHANGES TO
BOOK OF RULES**

Pripremio/Prepared by:

Booz | Allen | Hamilton

25. siječnja 2003
25 January 2003

ARTICLES IN BOOK OF RULES AND SUGGESTED CHANGES
BY MODULES

MODULE	ARTICLE - BOOK OF RULES
MODULE I	134, 136, 141, 147, 151, 154, 156, 159, 160
MODULE II	153, 175, 176, 177, 180
MODULE III	177, 178
MODULE IV	55, 76, 80, 175, 176, 177, 178, 179, 180, 183, 184, 196, 197
MODULE V	196, 197, 200, 203, 204, 205, 206
MODULE VI	196, 197, 200, 203, 204, 205, 206
MODULE VII	154, 235
MODULE VIII	105
MODULE IX	
MODULE X	105, 124

ARTICLE 55

Current version:

The function of the notice board, which is put on a visible place in court (court notice board), is the announcement of court decisions and communications via public announcement carried out according to provisions regarding certain court procedures.

Apart from the court notice board as referred to in paragraph 1 of the present article, commercial courts have a special bankruptcy notice where all decisions relating to bankruptcies are announced.

The head of the registry office provides or timely and regular putting announcements onto the notice board and their taking off after the expiry date. Announcement that was taken off has to have a note on the date of putting onto the notice board and putting off the notice board, which has to be confirmed by the head of the registry office by a seal and signature. Following the said procedure, announcement shall be filed into corresponding file.

BAH RECOMMENDATION:

1. Notice board(s) should be on the ground floor of courthouse building in a highly visible location. Each board should identify what material is to be posted.
2. Rather than using the notice board, post in a newspaper and on a court Web site.

ARTICLE 76

Current version:

The transcript is made for each court proceeding according to the regulations for the procedure.

The exact time of commencing and completion of a certain court proceeding shall be noted in each transcript.

Transcripts of the main sessions, preliminary and other hearings, as well as transcripts made in relation to other court operations (hearings carried out in the investigating procedure, etc.) are typed on a typewriter on regulated typed forms or on personal computers according to specified typed forms with sufficient space left on both pages (2 cm wide, each), without spacing, with separated paragraphs, on both sides of the page. Personal data relating to the accused person, witness, witness expert and other persons who give statements for the court record are written indented for approximately 4 cm from the left side of the page and separated from the text of their statements. Full name is written with capital letters.

Decisions made during the session and which relate to the conduct of the procedure or decisions made on the main matter and which are announced on the session are written separately from the remaining text in the transcript and labeled with a name in a separate line, with small, separated letters ("verdict", "decree"). Text of the reached decision is written in a separate paragraph, indented for approximately 4 cm from the left side of the page.

Time of the completion of the procedure (with hours and minutes) shall be noted in the final part of the transcript and below that, in the left corner of the transcript, directly below its text, a note shall be made on the

determined court fee (e.g., the fee according to the fee table ...the client is called upon to pay the aforementioned fee within three days, etc.).

BAH RECOMMENDATION:

Need to consider standardized transcript form.

A transcript may be handwritten, by entry into computer, audio/video recording, or by audio recording. If transcript is made by audio recording, no further record need be created.

When a printed transcript from audio recording is required, the judge will issue an order and a transcript will be prepared.

Whenever a transcript is printed it will be printed on one side only, have 3 cm margins on all sides, double space between lines, 12 point type, standard heading showing court, case number, parties to case, and in the lower right corner the signature of person preparing transcript and name and date typed below signature.

ARTICLE 80:

Current version:

If the main session, hearing other court activity is tape-recorded, recorded by the Dictaphone etc., it does not relieve the court of the obligation to draft a regulated transcript. Recordings may not substitute the transcript.

Tapes with recordings shall be kept as long as their canceling is ordered.

BAH RECOMMENDATION:

If a hearing, meeting or trial is recorded by audio or video, a transcript can be made if the party wants to pay for such a written transcript. The docket will reflect that a recording exist and its location.

All such recordings must have the following information attached: case number(s), parties, time, date and members of court present. Tapes will be retained as long as the case file.

Article 76, 77 and 80 needs to be reviewed and issue. Of audio recording be resolved, when should an audio recording be done and who should pay for it.

ARTICLE 105

Current version:

The official appointed for the receipt of briefs is obliged to follow the procedure determined by the provisions on fees in collecting and canceling the fee charges.

Tax stamps on briefs are put on the first page of the brief in the right upper corner, as a rule, on the copy for the court and, if this is impossible, below the text or on the back of the copy for the court.

Tax stamps for issuing certificates from the land registers are put in the registry of issued certificates in the section for remarks (notes).

Tax stamps on a court transcript, in cases where fee charge is envisaged, are put on a left side at the end of the text of the transcript, below the official note on determined fee charge obligation (tariff rate according to which the fee was calculated, amount of the fee and the due date of fee payment).

In case of putting the tax stamps on some other, subsequent brief or some other place in the file, in the transcript or brief for which the fee had to be paid, a note on fee charge obligation shall be put at the end designed for putting tax stamps. The note contains data on the amount of the paid fee and the brief on which it was put and cancelled.

It is forbidden to put tax stamps on submitted original supplements.

BAH RECOMMENDATION:

The court will not issue a final decision until all fees are paid.

If case settles prior to a court decision and fees are outstanding, an execution will be filed against the attorney(s) and parties in a case for payment.

ARTICLE 124

Current version:

The courts gather, process and deliver statistical data relating to their work on regulated blanks and typed forms (statistical sheets, reports, etc.). Statistical reports are filled in according to special regulations on the basis of data from individual registry books, court decisions and in other appropriate manner.

Filled in statistical sheets and regular statistical reports are delivered to competent bodies within scheduled periods.

BAH RECOMMENDATION:

We agree with NCSC, but until the Case Management System (CMS) program is developed and data elements required are defined. How will we know that reports can be computer generated, from a non-case management system.

NCSC PROPOSED ACTION:

Expand article to include computer – generated forms as well. Data form automation could be considered as "Other appropriate manner" but a more specific reference may be appropriate.

ARTICLE 134

Current version:

If the court is not competent for the receipt of the briefs, the official who receives the brief directly shall caution the submitter on the aforementioned and direct him/her to a competent body. If the submitter continues to insist that his/her brief be received, the official shall receive such a brief and below the seal on the receipt put a note on the issued cautioning.

Such a brief is registered in the corresponding register for miscellaneous objects (Form no 31) and after that delivered to the competent body.

BAH RECOMMENDATION:

We agree with the NCSC proposal.

NCSC PROPOSED ACTION:

Repeal the acceptance of briefs of different jurisdictions.

ARTICLE 136

Current version:

On the occasion of the direct receipt of the brief, the official shall caution the submitter about the irregularities related to the brief (insufficient number of copies, enclosures and certificates for the court and the clients, missing addresses of the clients and other persons, insufficient amount of the paid fee etc.) and require that the irregularities be promptly removed.

Should the case be, the court official might ask instructions from the head of the registry office.

If the submitter fails to remove the observed irregularities, such irregular or incomplete brief shall be received and a note on the aforementioned shall be made on the brief below the note on the receipt with a colored pencil, along with a note on the character of the irregularity (e.g. “insufficient number of copies”, “incomplete address”, insufficient amount of the paid fee” etc.) and a note on issued cautioning.

BAH RECOMMENDATION:

For purpose of efficiency document submitted for filing which has missing copies, has irregularities, false name and address and does not have stamps, a receipt or a waiver of fees or has stamps or receipt in incorrect amount will be returned to the filing party for correction.

NCSC PROPOSED ACTION:

Repeal.

Article 141

Current version:

A note on receipt (seal no. 26) is put on the copy of the brief designated for the court, on the first page, as a rule, in the middle of the upper part of the sheet. A note on receipt contains the name and the location of the court, day, month and year of the receipt and the data on the manner of the reception (e.g. “in person”, “mailed” or “registered consignment” etc.), the number of copies and enclosures, whether and how the fee related to the brief is paid, if it arrived by mail open or with damaged envelope, possible objects and cash money delivered with the consignment etc.

Exact time of receipt shall be noted in letters on the brief relating to the investigating procedure in a criminal case which is bound by a scheduled period expressed in hours or if the court is obliged to perform a certain activity in such a scheduled period, as well as in other cases when the president of the court makes such a decision. On the brief relating to land register cases, with the time of the receipt thereto, potential simultaneous delivery shall be noted on all briefs relating to the same land register body.

The date and the month of the postal seal relating to registered consignment shall be noted legibly in letters on the first copy of the brief relating to the appeal against payment order or severance notice as was made the day it was delivered at the post-office. If the date of the delivery of the consignment to the post-office may not be determined on the postal seal due to unintelligibility, the aforementioned shall be noted on the brief.

If on the occasion of opening the consignment it should be determined that money or some other valuable item is enclosed to the brief, a short note relating to the amount or value should be stated below the receipt note. The said amount or value shall, after registering the brief into corresponding register, be handed over to the employee of the accountancy who shall make a note on the reference number of the accountancy list under which the received value was registered below the receipt note and shall sign it.

An abridged receipt note containing only the name and location of the court and the date, month and year of the receipt (seal no. 28) shall be put on other copies of the brief.
Receipt note is signed by the official who received the brief.

BAH RECOMMENDATION:

The information on stamp 26 & 28 are entered into computer, so these stamps should be replaced with a “filed” stamp for original documents filed with court, and a “received” stamp for all copies. The stamps would contain the following:

1. “filed” or “received”
2. name of court and location
3. date
4. initials of person processing documents

ARTICLE 147

Current version:

The official who received the brief or other official letter is obliged, upon the request of the submitter, to issue a receipt note by an imprint of the acceptance of the seal in the section corresponding the brief or by signing it, alongside the court seal in the delivery log, if it precisely specifies the delivered briefs, the potential number of subsequent copies, sections, etc., or by issuing receipt on received brief (Form no. 13).

If the delivery note is enclosed to the brief, the receipt of the brief shall be confirmed on the delivery note by putting the date, signature and court seal and such a delivery note shall immediately be forwarded to the sender.

BAH RECOMMENDATION:

The article and form 13 should be deleted, as process has been re-engineered for ease and speed processing.

ARTICLE 151

Current version:

The head of the register is obliged to register in the corresponding register and directory (card file) all received briefs which initialize the establishment of a new file on the same day and no later than 48 hours after their reception.

By way of an exception from the provision of 1 of this Article, the files received on Friday, up to the end of the working day, have to be registered within a period of 72 hours.

BAH RECOMMENDATION:

The article needs to be revised to reflect forms and procedures under a fully automated CMS.

NCSC PROPOSED ACTION:

None. An amendment to the rule that declares the electronic record as an official copy of the register would suffice.

ARTICLE 153

Current version:

The name of the court on the file cover is put by the use of the seal in the upper left corner. File reference number is written in the upper right and bottom left corner and data on the case and the clients in the middle.

Short marks regulated in Article 100 and Article 150 of the Rules of procedure for the court are put above the printed text "File cover". Data on scheduled periods, set hearings or sessions are put at the bottom part of the cover in the appropriate section.

BAH RECOMMENDATION:

Under a CMS this article will need to be reviewed as the information will be available in others forms and if the CMS and suggested filing system are adopted, the article will need to be rewritten.

NCSC PROPOSED ACTION:

Electronic data record is considered as an acceptable format; labeled, folder, end tags, replace writing numbers on case file.

ARTICLE 154

Current version:

A file reference number composed of the abbreviation of the register name in which the file is registered is put on each file (K; P; O, etc.) written with capital letters, reference number of the entry and last two digits of the year of register entry (reference number K-13/96).

On the file cover below the docket number, an ordinal number of the tribunal (Roman letters), i.e. the judge to whom the file has been awarded to is put (e.g. II P-35/96).

BAH RECOMMENDATION:

The article needs to be revised so that each court and each judge has a unique number as required under a CMS. The case number will consist of a court number (the court number will only print out on reports and correspondence to another court), judge (number), type of case (K; P; O; St, etc.), written in capital letters, year and case number.

The case numbering system will start with case number 001 each year.

NCSC PROPOSED ACTION:

Allow electronic record entry as an acceptable format.

ARTICLE 156

Current version:

The head of the register shall write a business number with the sub number 1 on the first brief pertaining to the file initializing and register it immediately in the list of the briefs.

Other brief in the list of the briefs are registered and sub numbers marked according to the chronology, by the court officials entrusted with briefs received in the registry office and typist-recording secretaries until the file is in the registry in such a manner that the sub number matches the reference number in the list of briefs.

Each brief and official letter marked with the acceptance seal, decisions to be delivered to the clients, returned, undelivered delivery notes and other important briefs transferred to other bodies and courts are provided with a special sub number.

Internal orders, as well as decrees on scheduling sessions and hearings do not get a new sub number if they are written on the brief, which already has a sub number.

BAH RECOMMENDATIONS:

Case number should be stamped or written on first page of documents received with a new case.

All documents created by court will reference case number.

The automated CAE, judge and registry of action will maintain files of cases by the case number, judge and parties to the case.

ARTICLE 159

Current version:

Enclosures of certain briefs are filed into the file together with a relevant brief. Enclosures are marked by a business number of the corresponding brief; with the capital letter thereto, alphabetically on each enclosure separately (e.g. K-13/96-17-A)

Originals of documents to be returned to the clients after the completion of the procedure are filed into the file, as a rule, into a joint, open cover, on which, on its outer part, the enclosed documents shall be stated.

Copy of the original, as required, shall be enclosed to the corresponding brief to which the originals were enclosed and shall be kept in the file.

Other enclosures, which due to their shape or type may not be filed into the file, shall be deposited separately and a note on where the said enclosures are kept shall be made on the brief to which they were enclosed, as well as in the list of the briefs.

The reference number of the enclosure and, as required, the letter used for labeling the enclosures shall be stated in the list of the briefs next to the reference number of the relevant enclosure in the special section designated for listing enclosures.

BAH RECOMMENDATION:

Enclosure or exhibit to a brief are, if less than ten pages, filed in the folder. If more than ten pages or a physical exhibit, they will be filed in a separate folder.

All enclosures and exhibits will have a label affixed to them and it will reflect the enclosure or exhibit number as stated in brief. The case number must also be written on the label. See the example of Exhibit labels down bellow.

Exhibit labels

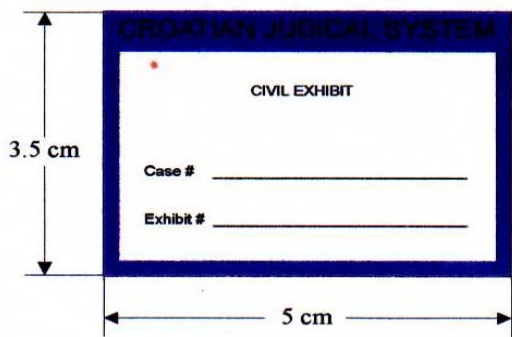
- 1) Labels are self-adhesive and label should be easy to peel off.
- 2) Labels are 3.5 cm by 5 cm.
- 3) Labels can either be packaged individually or on a sheet, but scored for easy Removal to apply to exhibit
- 4) Labels are color coded by Red on white for Criminal and Blue on white for Civil. Lettering will be in black.

ARTICLE

Current

All
dealing
files are
to
for
usage of

all briefs in the file, as well as for proper registering them in the list of the briefs. All officials dealing with files are responsible for their completeness and orderliness.



160

version:

officials
with the
obliged
provide
proper
labels on

Files, which contain more than 10 sheets, are bound together with the cover and list of the briefs by sewing or gluing. It should be provided for that the text of the brief remains visible and undamaged on the occasion of binding. For this purpose, segments onto which individual briefs are put should not be broader than the white margin left on both sides of the sheet (Article 85 of the Rules of procedure for the court). Briefs and their enclosures, which remain in the file permanently, are bound in the file.

Extensive files containing more than 200 sheets are bound into special bundles marked with Roman numerals (e.g.: bundle I, II, etc.). The list of briefs relating to files containing several bundles are written on the first bundle and follow the chronology regardless of the reference number of the bundles.

High court may return unorganized files to be organized properly.

BAH RECOMMENDATION (Articles 152 – 160):

The above articles reflect a labor-intensive process of filing and retrieving.

File folders are color coded to clearly identify the type of files. All briefs should be filed on the right hand side by punching two holes at top of document and placed on fasteners. All notes, postal documents and small exhibits will be placed on the left side of folder. For numerous enclosures or exhibits a pocket folder will be used.

Self adhesive numeric labels should be used to identify the year, case number, volume, court, etc.

1. A small two-digit year band (01) label is placed at top right side of folder for the year.

2. A larger digit case band (0) label is placed at bottom and comes up as additional numbers are added for the case number.
3. A small one to two digit volume band (1) label is placed on the top left side of folder for the judge handling the case.
4. A small three-digit band label is placed below the volume label to denote court number.

See a sample of the label/and file folder following.

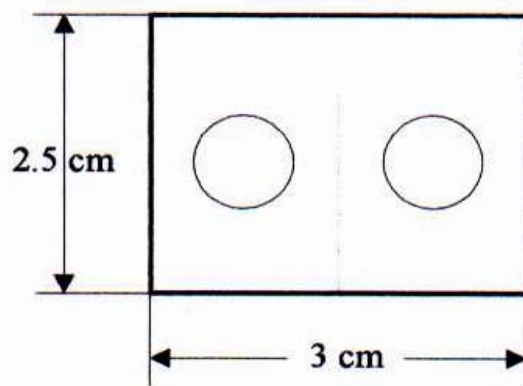
NOTE:

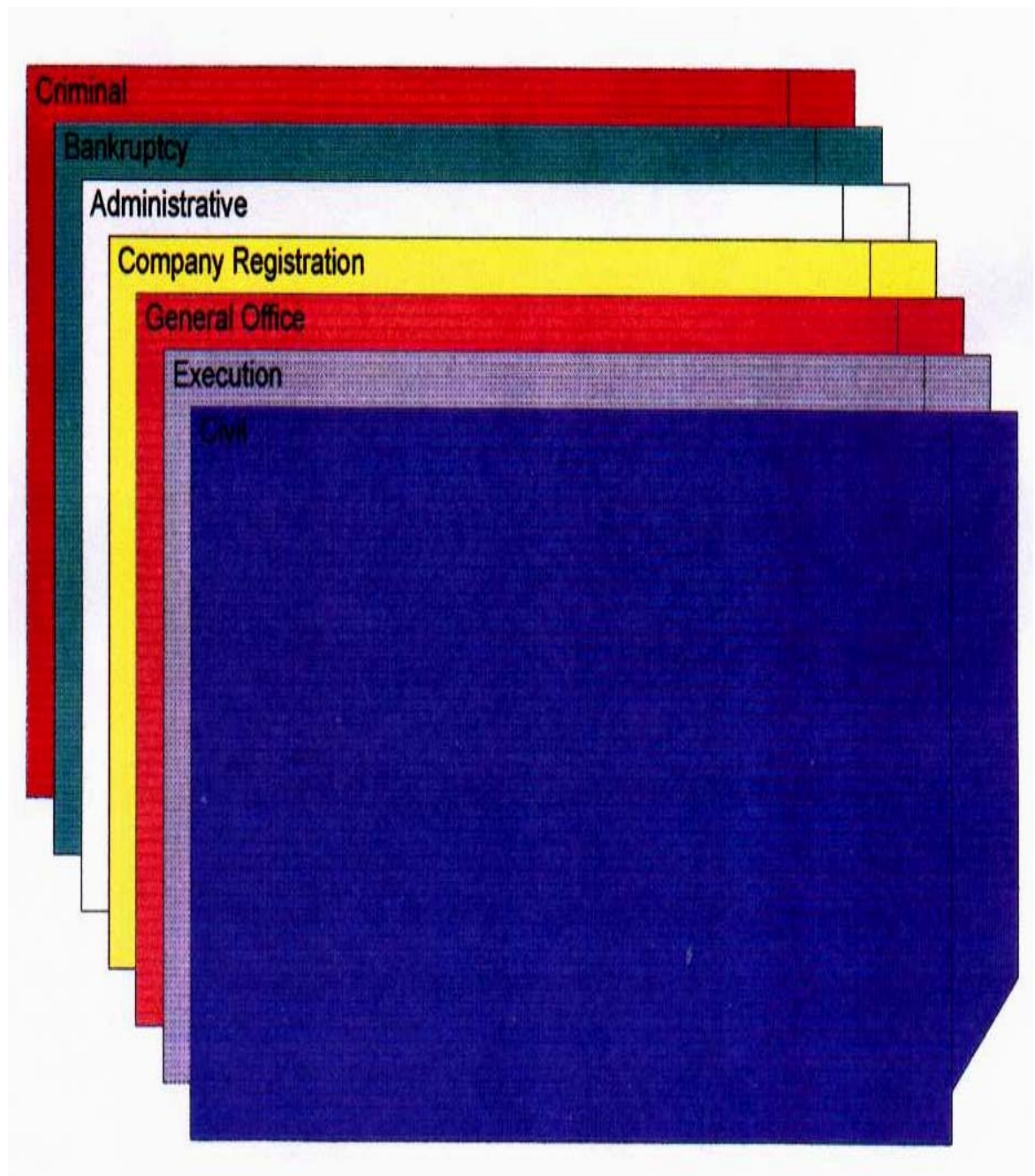
Article must be re-stated deleting all terminology as to bundle, binding, sewing or gluing.

NCSC PROPOSED ACTION

New folder with metal claps to attach briefs securely without gluing.

LABEL/AND FILE FOLDER FOLLOWING :





ARTICLE 175

Current version:

Investigating judge, reporting judge of the second-instance council, the president of the council or the judge working on settling the case, is obliged to study a certain case if further procedure is not required (issuing payment order, removing insufficiencies from the brief etc.) and to schedule the date and time of the hearing, main session or the meeting of the second-instance council.

Only those sessions, hearings or meetings, which are joined for the purpose of joint hearing, may be scheduled at the same time (Article 167 of the Rules of procedure for the court).

The number of hearings in one official day is determined according to the complexity of the procedure and potential duration of certain official activities, number of summoned persons, type and quantity of evidence etc., for the purpose of efficient use of official time.

On the occasion of summoning persons who live outside of the court headquarters, traffic and weather conditions, the distance between the residence and the court headquarters, possibility of timely delivery and the shall be accounted for.

BAH RECOMMENDATION:

Based on the CMS developed the above article will need to be revised to reflect an automated system.

NCSC PROPOSED ACTION:

Computerize the scheduling of the first hearing.

ARTICLE 176

Current version:

Main sessions, hearings and the meetings of the second-instance councils shall be scheduled primarily in relation to urgent cases (Article 174 of the Rules of procedure for the court), as well as in relation to ongoing cases, which last for a longer period of time. On observing that a certain party stalls the procedure on purpose, attempts shall be made to prevent the aforementioned by, inter alia, more frequent scheduling sessions, hearings and meetings.

Sessions and hearings in court shall be scheduled in such a manner that a maximum number of sessions and hearings are held each working day.

In day when no sessions and hearings are scheduled, verdicts are being dictated, the decisions made, necessary administrative operations are carried out, files are studied and preparations for the sessions and hearings scheduled for the next day are performed.

Meetings of the second-instance councils are held at least once a week.

On the session of the second-instance council, according to the agenda of the President of the council, as a rule, more sessions are decreed to be held, the schedule of which is given to the interested parties.

If a certain hearing has to be held outside the court building, the scheduling of the said hearings shall, as a rule, be set on a court day of that council or the judge, provided that such hearings are held, as a rule, after sessions and hearing held in the court.

The judges may not, as a rule, schedule proceedings outside the court, except in investigation cases, in days with no scheduled sessions and hearings. The president of the court shall allow proceedings outside the court in the said days only out of regular working hours.

The president of the court and higher bodies of the court administration may, as required, schedule the last number of hearing days in one week or month, as well as the last number of sessions, hearings and meetings of the second-instance councils to be held on an average in one hearing day or in a specific period.

BAH RECOMMENDATION:

See recommendation after Article 180.

ARTICLE 177

Current version:

Typed forms in which the exact full name, address, street and a number of summoned persons are stated, as well as what is to be delivered to whom and the manner of delivery (Articles 204 to 206 of the Rules of procedure for the court) shall be used for orders and decrees related to scheduling sessions and hearings, as well as in carrying out some other court procedures.

If it pertains to a brief first submitted (indictment charge) or latter briefs which contain suggestions regarding the chain of evidence in the order or the decree for setting the court date it is sufficient to point out to the aforementioned brief bearing in mind that the names and addresses of the persons to be summoned are to be underlined and given a reference number.

BAH RECOMMENDATION:

See recommendation after Article 180

ARTICLE 178

Current version:

When certain court proceedings, i.e. sessions and hearings are postponed or adjourned, the court shall, as a rule, immediately schedule the date and time when the said procedure is to be continued and inform the present people of the aforementioned and it shall determine the persons to be summoned. Present people shall be invited to come to the court on a certain date and time if their presence is necessary. The transcript or the note (if the transcript was not taken) shall state in the said case that the present persons were orally notified. Persons summoned in such a manner shall acknowledge by their signature that they have been served.

The exact addresses of the persons who are absent and are to be summoned to a certain session or hearing shall be stated, inter alia, in the decision on postponement or adjournment.

BAH RECOMMENDATION:

See recommendation after Article 180

ARTICLE 179

Current version:

In after, when the court date is set, a proposition id given for the introduction of new evidence, except the earlier proposed, on such a proposition shall be acted upon only if it is possible that so proposed evidence may be in due time acquired and summons served.

BAH RECOMMENDATION:

See recommendation after Article 180

ARTICLE 180

Current version:

Cases for which sessions or hearings are scheduled shall be registered by the investigating judge, the President of the council or the judge into the Business diary (Form no. 17) according to the date and time when the said session or hearing is scheduled. The same procedure shall be applied in relation to registering important deadlines set for certain cases.

BAH RECOMMENDATION (Articles 175 – 180):

Based on the CMS developed the above articles will need to be revised to reflect an automated system.

NCSC PROPOSED ACTION:

Computerize the scheduling of the first hearing.

ARTICLE 183

Current version:

The President of the council, investigating judge or judge working on the case shall state in the order for delivery (delivery order, abbreviated as DNA) who and how is the delivery to be carried out (e.g. Personal delivery – by the blue delivery note, etc.).

Bodies, companies and other legal persons, as well as the receivers of the delivery are stated with full name (name or full name and occupation) and correct address or common abbreviation (e.g. DO, DP, MUP, PU, etc.).

The corresponding typed form may be used for the said order.

Delivery order shall be written below the instructions regarding the appeal.

BAH RECOMMENDATION;

Based on the CMS developed the above Article will need to be revised to reflect an automated system

NCSC PROPOSED ACTION:

Include computer-generated form as an acceptable format.

ARTICLE 184

In the order or decree relating to scheduling a session or hearing, the judge shall, as a rule, determine the due date of the listing, not shorter than eight days prior to date of the session or hearing.

The date of the scheduled period shall be noted on the outer cover of the file in the bottom right corner.

BAH RECOMMENDATION:

The last sentence will need to be revised to conform to the automated case management system developed.

NCSC PROPOSED ACTION:

Electronic data record is considered as an acceptable format; labeled folder end tags replace writing number on case file.

ARTICLE 196

Current version:

Data are registered into the registers by the heads of certain registers; the said tasks on court with the extended scope of work are performed also by other officials of the court registry office appointed by the agenda and according to the instructions given by the head of the register or under their supervision.

Data are registered in the register in such a manner that in the corresponding sections of the register the following is registered: the dates scheduled for certain sessions or hearings, decisions made, in addition to the data on the type and content of the decision, sentences or re-education measures pronounced for the minors in addition to the data on the time when the said decisions were brought, made and delivered, the dates of second-instance decisions and the manner of settlement, the note relating to other activities, cases labeled as finalized etc.

BAH RECOMMENDATION:

The automated case management system will address this issue and goes to the heart of the issue of why a CMS is needed.

NCSC PROPOSED ACTION:

An amendment to the Rules that declares the electronic copy as an official copy of the register would suffice.

ARTICLE 197

The court registry office keeps a list of the procedure status in relation to particular cases and of their location by filling in certain sections in the corresponding registers.

Data on the circulation of the files are registered in the registers in specified sections designated for the circulation of the files by a lead pencil, noting the date and identifying the person to whom the file was delivered for processing or filed among those files for which the dates are to be set or are set (e.g. registry, calendar, court date). Records and notes in the registers need to be clear and legible so that in case of potential alternations in the agenda or in case of absence of certain officials, other officials may use the existing data without difficulty.

In courts with the extended scope of work, the data on the circulation of the files shall be registered in a special Notebook on the circulation of the files (Form no. 18) and the said procedure may be carried out on a personal computer.

BAH RECOMMENDATION:

The automated case management system will address this issue and goes to the heart of the issue of why a CMS is needed.

NCSC PROPOSED ACTION:

Computerized file tracking; never allow individual briefs to be removed from case file – take the entire file.

ARTICLE 200

Current version:

The clients and other persons are summoned to sessions and hearings by the summons written on a regulated typed form (blank) or written on a personal computer; the said summons and typed forms (blanks) are filled in individually for each summoned person.

The summons is certified by seal of the court and the signature of the official who wrote the summons. The signature is placed below the seal or printed imprint, which contains the full name of the President of the council or judge, who ordered the summoning and the “seal for confirmation of the dispatch authorization”.

BAH RECOMMENDATION:

The above article should be revised or eliminated based on the automated CMS developed.

NCSC PROPOSED ACTION:

None. Article allows the summons to be completed via computer.

ARTICLE 203

Current version:

All copies of the dispatch shall prior to the delivery be authenticated with the original or first copy of the made decision. Dispatches have to be orderly and legible.

In case of abridged dispatches it shall be stated whether all the copies correspond to the brief to which the decision refers and whether they comply with the regulations for the abridged dispatch. Typing errors made in the course of the typing shall be corrected in such a manner that the error shall be carefully erased and the correct text written instead.

If in the course of typing and the elaboration of the dispatch serious errors are made, because of which extensive correcting needs to be done (crossing out, erasing etc.), new dispatch copies shall be made. Completed authentication of the dispatch is registered in the corresponding section of the dispatch note in such a manner that the official who performs the authentication writes the authentication date and puts his/her signature.

BAH RECOMMENDATION:

The article becomes redundant in a computerized environment and does not apply to current business practices.

ARTICLE 204

Current version:

Summons, decisions and other dispatches designated for the clients and other persons are delivered according to the regulations relating to the court procedures in the manner regulated by the delivery order.

If the delivery order does not specifically stipulate the delivery manner or if the delivery order is not clear and uncertainties regarding the delivery manner exist, the instructions from the judge shall be required. The delivery order may contain corresponding specific orders and instructions, if necessary.

BAH RECOMMENDATION

Articles 204 – 218 will need to be reviewed and rewritten to conform to an automated CMS. As an example 205 address the register which will be eliminated in an automated system.

ARTICLE 205

Current version:

Prepared dispatches and other official letters to be dispatched are handed over to the official appointed for dispatching of the consignment and the said official shall register all consignments in the corresponding

dispatch and delivery log and carry out their dispatching (Delivery mail log – Form no. 19 or Local delivery log. Form no.20).

In courts with a wide scope of work, consignments designated for dispatching may be listed in the Books of duties of the court official relating to dispatches for delivery (Form no. 21); consignments handed over for delivery shall be registered in the said book.

BAH RECOMMENDATION

See recommendation after article 218

NCSC PROPOSED ACTION:

Replace manual registry with electronic record and computer-generated verification list.

ARTICLE 206

Current version:

Decisions, summons etc., for which the receipt evidence is required, shall be delivered to the clients and other persons with the delivery note or they shall be put in the file cover with a return receipt, which shall state the name or the full name and the address of the recipient, name of the delivered decision, summons, etc., label of the file, date of the decision and the date of the calendar (“Kal”). The name of the court on the return receipt is stated with a seal and may also be printed.

Decisions, summons etc., which have to be personally delivered to the addressee, shall be dispatched with a delivery note or envelope with a blue return receipt; other official letters shall be dispatched with a delivery note or envelope with a white return receipt (Forms no. 100, 101, 102 and 103).

When the summons for sessions and hearings or decisions against appeals may be filed are delivered, the date of the calendar (“Kal”) shall be stated above the text of the delivery note or return receipt.

Other consignments, as well as ordinary short notifications for the clients may be dispatched through mail delivery in cases where the evidence on performed delivery is not required.

Consignments, which contain urgent letters, are dispatched with the first following dispatch and the rest are dispatched during the day at a set time.

BAH RECOMMENDATION

See recommendation after article 218

ARTICLE 235

Current version:

The high court returns the file to the first-instance court with the necessary number of orderly and legible dispatches of its decision for the court and the clients. The first copy of the second-instance decision shall be made on a high-quality paper for the first-instance court if the dispatch was typed on a typewriter and not on the personal computer.

The original of the high court decision remains in the file of the high court with the transcript or note on the deliberation and voting, as well as other briefs and decisions related exclusively with the procedure in the high court. The transcripts of sessions held in the second-instance court are enclosed to the file of the first-instance court with the following certificates in the file of the second-instance court thereto.

BAH RECOMMENDATION:

Change word dispatches with copy. Decision should be on a high quality goldenrod paper.

**Attachment 5:
Summary of Meeting,
30 April 2002**

ATTACHMENT 5

Summary of Meeting 30 April 2002

Summary of a meeting held at the Booz Allen Hamilton offices in Zagreb on 30 April 2002. Attending were: Miljenko Sladović, Project Management Unit; Hans Korb, World Bank Consultant; Steven Urist, BAH Consultant, Zoran Grubišić-Čabo, USAID and Fred Yeager, BAH.

After a three-hour discussion the following conclusions or actions were reached regarding the Croatian Court and Bankruptcy and Administration Project (CBAP) and the related work program:

CONCLUSIONS

1. BAH will provide description of modules based on the advice of experts and BAH analysis of current practices. As soon as the scheme is available, it will be reviewed by the MOJ's Working Group of coordinating judges at the pilot courts, for its realistic presentation of the court processes. Upon acceptance by the Working Group, it will become the basis for the detailed analyses of modules one by one.
2. Upon acceptance of the module scheme, the BAH will provide a tentative schedule for analyses of modules for the MOJ's approval. The schedule will be prepared in way, as to facilitate and support other components of the CBAP. It is expected that the analysis of modules will be finished attentively by the end of October 2002.
3. Each module will be analyzed in detail, both from the functional aspect as well as the organizational aspect. The description of the modules will also summarize the impact the suggested changes will have on the type and quality of future human resource needs. Recommendations for process improvements and necessary changes to the current rules and regulations will be well justified.
4. It is anticipated that the first module to be assessed will be the "Intake and Registration Module." This module will focus on the intake process and the various registry books.
5. Conclusions and system design will be coordinated with the NCSC Zagreb Municipal Court project and comments identifying where the systems diverge will be documented. The intent is to avoid duplication of efforts and different case management systems with the long range goal of a case management system that serves the needs of all Croatian Courts and improves efficiency in the Croatian court system.
6. Once prepared, each module will be presented to the MOJ's Working Group for review and comments. The package of materials supporting the module will give detailed analysis of current processes, detailed recommendations, suggestions and comments and a description of the impact these changes would have to the rules and regulations currently in place. Following the review by the MOJ's Working Group, the BAH will incorporate received comments and prepare the final version of the package. The finalized package of materials will be presented to the MOJ's Advisory Group by the representatives of the Working Group, supported by the BAH for possible clarifications. Upon acceptance by the MOJ's Advisory Council, chaired by the MOJ's Deputy Minister, the proposed solution can be considered final. That will be confirmed in writing in line with the agreed communication procedures.

The CBAP Working Group will be meeting, based on in advance agreed schedule and the BAH's work progress. This Working Group will be supplemented by specialists and others as deemed useful by the MOJ. For example, in reviewing and commenting on the Registration Module it might be necessary to include individuals who work in the intake area of the courts. In that respect, the PMU will consult the Ministry and ensure additional know-how on as-needed basis.

During the discussion, it was concluded that the Working Group should have a chairperson for each session, who will mediate the work of participants to insure that the conclusions reached are properly incorporated in the materials prepared by the Consultant. The MOJ's secretary of the Working Group should not fulfill the role of Chairperson.

The participants agreed that there must be a formal statement of the approval process and that this process would be followed for each module.

The participants agreed that the approved modules will become a part of the Final Report.

The report, after review and approval by the Advisory Group, the Ministry of Justice and other parties as identified by the Project Management Unit will become a Final Report documenting the re-engineered process. It will be formally transmitted to the MOJ, in line with the communication procedures identified in the Project Implementation Manual, which is under preparation.

Note: Although not discussed at the meeting, S. Urist and H. Korb believe that it is a necessity that a representative of the MOJ's Informatics Department must attend and participate in meetings of the Working Group as it reviews and approves the modules.

ACTIONS TO BE TAKEN

BAH will prepare:

- (1) A time-line schedule of activities (as referred to in Conclusions: Paragraph 4) needed to arrive to the Final Report documenting re-engineered process.
- (2) A detailed assessment of the current system as it relates to each module. If the work done to date is not sufficient, BAH will perform any additional work or analysis that will be needed.
- (3) A detailed analysis of the current system, as it relates to each module.
- (4) A detailed proposal for changes of the current system for each module.
- (5) A detailed explanation of the rationale for the recommended change.
- (6) A set of detailed functional standards that relate specifically to each module.
- (7) Any recommendations for changes needed to implement the new system and/or the functional specifications and the consequences of the recommended changes to the system, to the Book of Rules or to applicable laws.
- (8) A statement of resources needed to implement each module.

S. Urist and H. Korb will prepare:

- (1) A list of the modules.
- (2) A general activity timetable.

M. Sladovic will prepare:

A procedure for the approval process to be followed by the Working Group and the Advisory Council that shall include deadlines for each step in the process.

Date: 14 June 2002

ACKNOWLEDGMENTS

Acknowledgment by Zoran Grubišić-Čabo by e-mail dated Tuesday, 18 June 2002:

I have reviewed the document dated 14 June 2002 titled "Summary of the Meeting - April 30, 2002" and acknowledge that the statements in the Summary of Meeting accurately reflect the issues discussed and agreements arrived at in the April 30, 2002 meeting held at the Booz Allen Hamilton Offices in Zagreb, Croatia and approve the document dated 14 June 2002 "Summary of the Meeting - April 30, 2002.

NAME Zoran Grubisic Cabo
Date 18/06/02

Acknowledgment by Miljenko Sladović by e-mail dated 18 June 2002:

I have reviewed the document dated 14 June 2002 titled "Summary of the Meeting - April 30, 2002" and acknowledge that the statements in the Summary of Meeting accurately reflect the issues discussed and agreements arrived at in the April 30, 2002 meeting held at the Booz Allen Hamilton Offices in Zagreb, Croatia and approve the document dated 14 June 2002 "Summary of the Meeting - April 30, 2002.

**Miljenko Sladovic
June 18, 2002**

Acknowledgment by Hans Korb by e-mail dated Friday, 14 June 2002:

I have reviewed the document dated 14 June 2002 titled "Summary of the Meeting - April 30, 2002" and acknowledge that the statements in the Summary of Meeting accurately reflect the issues discussed and agreements arrived at in the April 30, 2002 meeting held at the Booz Allen Hamilton Offices in Zagreb, Croatia and approve the document dated 14 June 2002 "Summary of the Meeting - April 30, 2002.

**Hans H. Korb
Date 06/15/2002**

Acknowledgment by Steve Urist by e-mail dated Friday, 14 June 2002:

I have reviewed the document dated 14 June 2002 titled "Summary of the Meeting - April 30, 2002" and acknowledge that the statements in the Summary of Meeting accurately reflect the issues discussed and agreements arrived at in the April 30, 2002 meeting held at the Booz Allen Hamilton Offices in Zagreb, Croatia and approve the document dated 14 June 2002 "Summary of the Meeting - April 30, 2002.

Steve Urist

6/13/2002

Acknowledgment by Frederick G. Yeager:

I have reviewed the document dated 14 June 2002 titled "Summary of the Meeting – April 30, 2002" and acknowledge that the statements in the Summary of Meeting accurately reflect the issues discussed and agreements arrived at in the April 30, 2002 meeting held at the Booz Allen Hamilton Offices in Zagreb, Croatia and approve the document dated 14 June 2002 "Summary of the Meeting – April 30, 2002.

Fred Yeager

19 June 2002

List of Modules for the Croatian Commercial Court Case Management System

Module 1	Case Initiation, Indexing and Register of Actions
Module 2	Scheduling and Calendaring
Module 3	Document Generation and Processing
Module 4	Hearings
Module 5	Case Disposition and Closure
Module 6	Enforcement of Court Orders
Module 7	File, Document and Property Management
Module 8	Financial Functions (basic functionality relating to court fees)
Module 9	Security
Module 10	Management and Statistical Reporting

**Attachment 6:
Transmittal Letter—Modules**

ATTACHMENT 6
TRANSMITTAL LETTER - MODULES

Booz | Allen | Hamilton

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10000 Zagreb, Croatia

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17 March 2003

Mr. Miljenko Sladović
Ministry of Justice
Project of Technical Assistance in Bankruptcy Procedures
Savska 41
10000 Zagreb, Croatia

Dear Mr. Sladović:

Enclosed please find 11 copies of Books 1 and 2 of Modules 1 through 10 in English and Books 1 and 2 of Modules 1 through 10 in Croatian.

Each of the 10 modules have been updated to include the changes discussed by the Working Group during its review of each of the modules. The changes suggested by the Working Group are in italics. In those instances where the Working Group suggested the deletion of a subsection, a diagonal line has been drawn through the material to be deleted.

If you have any questions, please contact me.

Sincerely,

Booz Allen Hamilton
Frederick G. Yeager
Chief of Party

Cc: Mike Greene – USAID
Zoran Grubišić-Čabo – USAID
Katarina Mathernova – World Bank
Irina Kichigina – World Bank
Hans Korb – World Bank
Carl Blair – NCSC (3 copies of material)

**Attachment 7:
USAID Letter Defining
Terms of Assistance**

ATTACHMENT 7
USAID LETTER DEFINING TERMS OF ASSISTANCE



U. S. AGENCY FOR INTERNATIONAL DEVELOPMENT
Embassy of the United States of America
Phone: (385) 1 6040909 - Fax: (385) 1 6040920
Zagreb, Croatia

July 26, 2002.

Mr. Miljenko Sladović, Project Manager
MINISTARSTVO PRAVOSUĐA,
UPRAVE I LOKALNE SAMOUPRAVE
Vinogradska 25
10 000 Zagreb

Dear Mr. Sladovic:

As we have stated on several occasions, USAID is prepared to provide assistance to the Project Management Unit for preparation of a PMU technical Project Implementation Plan.

We can move forward with providing assistance to the PMU on the technical Project Implementation Plan for which you have requested assistance, with the following understanding:

1. USAID assistance will be in the form of technical services by a technical specialist who has a solid background in IT work and is familiar with the procedures for writing a technical IT Project Implementation Plan. Our contractor, BAH, has started the process of identifying the individual.
2. The Project Management Unit (PMU) must devote sufficient manpower and other resources during the time that the USAID/BAH technical specialist is in Croatia to insure that the USAID/BAH technical specialist has the necessary guidance to assist the PMU to write and adopt an IT Project Implementation Plan.
3. "Sufficient manpower and other resources" would include but is not limited to:
 - (a) fulltime assignment of a member of the Informatics Division of the Ministry of Justice to a team that will write the technical Project Implementation Plan. We believe that Ms. Tanja Magdić-Ukalović would be an acceptable person but leave it to your discretion to find a qualified person from the Informatics Division staff.
 - (b) you, as Project Manager, must be a member of the team and prepared to devote as much time as needed to write and adopt a technical Project Implementation Plan. The end product of the effort is/will be the product of the PMU not USAID or BAH.
 - (c) The PMU must provide a fully qualified technical person to lead the team, which would include you, the Informatics Division staff member

and the USAID/BAH technical specialist. We understand from previous conversations that you may not have such a person on the PMU staff. If that is in fact the case, we would suggest that you consider using a short-term technical consultant to represent the PMU in preparing the technical Project Implementation Plan. This individual must be prepared to devote his/her full working time to writing and adopting the technical Project Implementation Plan.

4. The PMU should notify USAID of the names of the members of the team, the start and stop dates for the period during which the team is prepared to devote full working time to writing and adopting the technical Project Implementation Plan. USAID/BAH will make every effort to find a technical specialist for that period. In the event that a qualified specialist cannot arrange his/her schedule to accommodate those dates, USAID/BAH will notify the PMU of the available dates for a technical specialist and a time will be agreed that is satisfactory to both USAID and the PMU.

5. The PMU should provide adequate working space so that the members of the team can work without disturbance from colleagues or requests from other non-team members for performance of services or activities, which are not connected to writing and adopting a technical Project Implementation Plan.

6. Prior to any final selection of the USAID/BAH technical specialist USAID will advise you of the name of the technical specialist, provide a copy of his CV and other qualifications and the dates of arrival and departure. You should acknowledge that he/she is acceptable and that the time of availability will be sufficient to accomplish the intended task.

If you have any questions or need clarification, please call me.

Sincerely,

Frederick Claps
Senior Econ Advisor

CC:

Deputy Min. Miljenko Kovac
Assist. Min Vanja Bilic
Ms. Nevenka Rogan-Skrapec
Ms. L Beardsley
Booz -Allen & Hamilton

**Attachment 8:
Agreements Reached with the
Ministry of Justice of Croatia on
Further Implementation of the
World Bank Court and
Bankruptcy Administration
Project**

**AGREEMENTS REACHED WITH THE MINISTRY OF JUSTICE
OF CROATIA ON FURTHER IMPLEMENTATION OF THE
WORLD BANK COURT AND BANKRUPTCY ADMINISTRATION
PROJECT**

ACTION PLAN

The following documents the understandings on status of the implementation and agreements on the next steps regarding the Court and Bankruptcy Administration 11'roject (The Project) in Croatia which were reached between the Deputy Minister of Justice, Mljenko Kovac, mr. sc. and World Bank Supervision Mission, lead by Katarina Mathernova. The Mission, which included also Mr. Hans Korb, an informatics specialist visited Zagreb between February 3 and February 13, 2003. The following understandings and agreements were reached:

GENERAL UNDERSTANDINGS:

- Mr. Kovac expressed, on behalf of the MOJ, an **overall commitment to the reform program** underlying the Project and explicitly stated that under no circumstances does the MOJ want to cancel the Project and the Loan Agreement.
- Mr. Kovac expressed, on behalf of the MOJ, the desire to revisit the content of the individual components of the Project in light of the changed circumstances in the Croatian judiciary today vis-a-vis the situation during Project preparation. He expressed the desire to amend the Project documentation (if necessary, including the Loan Agreement) to reflect the changes and adjustments discussed during the Mission.
- The Mission expressed willingness, on behalf of the Bank, to make adjustments in the Project design, as long as the overall developmental objective -- of making the Croatian judiciary, especially in the bankruptcy and commercial cases, more efficient -- are respected and the individual activities envisioned aim at reaching this objective,

- The MOJ and the Mission recognize the role of US AID a co-Financier of the main component of the Project (commercial court case management automation). It was noted that the MOJ and US AID will have further discussions on their mutual cooperation ' on. It was recognized that the work of their contractor Booz Allen Hamilton (BAH) in this component is coming to closure,
- The MOJ and the Mission recognize that the current situation of a parallel development of two court case management systems (US AID finances the development of a model for the commercial courts as well as the municipal court in Zagreb) is not sustainable and would lead to unnecessary duplication and waste of resources, It was agreed that commonalities in the two systems will be identified and documented. On their basis, an integrated system for **the commercial and municipal courts** will be designed and developed.
- The MW recognizes that the Project can be a success only with a functioning management structure. To this end, the MOJ agrees that the current project management arrangements, including the authorities and staffing of the Project Management Unit (PMU) have to change so that the PMU can assume a much greater role in the overall Project implementation (see below),
- The MQJ recognizes that the development of a modern case management system for Croatia requires an active participation of the judges and other stakeholders to achieve their ownership of any system that will be developed. The MOJ, therefore, recognizes the role and supports the involvement of the **judicial working groups** as the principal counterparts for the formulation of the automation effort, The MOJ will take all necessary steps to allow the judges to meaningfully participate in the court automation and legal information efforts under the Project.

**SPECIFIC UNDERSTANDINGS/AGREEMENTS ON PROJECT DESIGN
By COMPONENT¹:**

COMPONENT A (1) -- \$4.3 (\$3.2) million

- Further activities related to the preparation of the functional/technical specification of Component I of the *Project* - automation of the commercial court case management -- is needed and will be carried out pursuant to the new understanding between the MOJ and the W13. It was agreed that:
- Functional specifications, modules for a case management system and any other documentation required under BAH's contract financed by US AID for the commercial courts will be submitted in the next few weeks. This submission, which will be reviewed by US AID, will be considered the final input of BAH into Component 1.

Pursuant to the November 7, 2002 strategy entitled *The Reform of the Justice System*, the MOJ wishes to modernize the Croatian court administration and case management systems. The MOJ recognizes that it is not in the interest of the Republic of Croatia and its judicial reform efforts to develop two separate systems for automated case management. Therefore, the MOJ supports the development and implementation of an **integrated case management for all the courts** in Croatia. The integration of the two systems has been welcomed by all relevant stakeholders including the MOJ, the judges and the donor community, namely the World Bank, US AID and the European Union.

To achieve the integration goal, a case **management automation and informatics specialist** (the Consultant) will be retained **under the Project** to:

- i) augment the functional specifications for the commercial courts;
 - ii) prepare integrated functional specifications for the commercial and municipal courts. For this task, the Consultant will utilize the materials already prepared by the National Center for State Courts (NCSC) under a US AID contract and other available materials and reports;
 - iii) prepare technical specifications for the integrated model;
- identify the common features of the generic system comprising both the commercial and the municipal courts; and

¹ The overall cost of the individual Components contains the total project amounts, including Government counterpart financing. The net sum of World Bank financing follows in parentheses.

- identify the individual features of the two respective types of courts;
 - prepare *common* data model for the integrated case management system
 - specify all forms and reports to be generated by the new system
- iv) prepare a request *for* proposal (RFP) which will be used to *procure* the services of a software development firm to develop a system on the basis of the above specifications; and
- v) identify the hardware needs for the six pilot commercial courts included in the Project.
- The final implementation of the software solution will be based on the testing of a **prototype of the** case management system in a commercial court (other than in Zagreb and Rijeka).
 - The Request *for* Proposal (RFP) for software development prepared by the NCSC for the municipal court in Zagreb **will not be issued**. The reason for this step is the above formulated desire to integrate the two case management automation systems.

COMPONENT B (11) -- \$0.6 (\$0.5) million

The MOJ did not raise any objections to the direction and content of this Component, "legal information system" related to bankruptcy cases. The High Commercial Court (I-ICC) and the commercial court liaisons expressed strong desire to develop an information system, including case publishing database for the bankruptcy area. Since under an EU CARDS financed project a case publishing and information system is being developed in the Supreme Court of Croatia, any effort under this Component needs to be coordinated with this effort.

To this end, the Mission requests that the PMTJ initiates all necessary consultations with the Supreme Court, EU CARDS consultant and the HCC to explore the possibilities of linking these two systems, merging them together and/or ensuring their compatibility.

COMPONENT C (11), \$0.5 (SOA) million

- The objectives of the Project include - among its core activities - assistance in the institution building and strengthening of the bankruptcy trustee professional competencies, Component III of the Project. The MOJ *agrees* that a part of the

- **Project** will be devoted to assisting the *trustee profession* in developing necessary professional standards and requirements; training and institution and capacity building for the trustee profession. As of yet, it is not clear how the trustee profession will be regulated, however, the MOJ recognizes that the current situation is not optimal and changes are needed. The MOJ agrees that the WB will have a meaningful opportunity to **comment on the proposed draft law on the regulation of the trustee profession.**
- While the regulatory framework for the trustee profession is still being decided upon, there is a wide recognition among *all* stakeholders that the trustees do not have adequate professional capacity and that an intensive training effort is greatly needed. The Mission requests that the PMU procures the services of a consultant to develop a training module for bankruptcy trustees. Based on an agreement on the regulatory framework for the trustee profession, participants for the training courses will then be identified and training will be carried out.

COMPONENT D (IV) -- SLOO (\$0.5) million

- The MOJ and the Mission agreed that training of **judges** and court personnel is greatly needed. The MOJ did not raise any objections to this Component IV. It was agreed that this Component - "upgrading skills of bankruptcy professionals" will be augmented to include:
 - o The hiring of a Consultant who will assess the training **needs** among judges, judicial trainees and court personnel; and
 - o The hiring of a Firm to develop and carry out training modules for commercial court judges judicial trainees and court professionals in the bankruptcy area.

The Mission committed to assisting the MOJ in coordinating and synchronizing YM efforts with those of the European Union which also has a judicial training program in its portfolio.

COMPONENT E (V) -- \$0.2 (\$0.15) million

- The Mission explained the purpose and content of this Component V entitled "Insolvency and Legal Services Framework". It was agreed that resources available through this Component may be used by the MOJ to finance research, analyses and program design for some of the individual elements of the November 7, 2002 *Reform of the Justice System* which is currently being debated by the Croatian Parliament.
- The MOJ and the Mission agreed, that the MOJ will prepare concrete proposal for research and analyses to be financed under this Component. These proposals

will be given to the WB Task Team Leader and discussed in greater detail during the next mission.

AGREEMENTS ON PROJECT MANAGEMENT ISSUES AND ROLE OF THE PROJECT MANAGEMENT UNIT:

COMPONENT F (VI) - \$0.4 (\$0.3) million Mr. Kovac and the Mission recognize that a proper and efficient management of the Project is a condition of **WB's further involvement** and of making any adjustments in the content of the individual Components of the Project.

- The MOJ recognizes that the authorities and activities of the Project Management Unit (PMU), headed by Mr. Miljenko Sladovic, have been strictly limited until now. It further recognizes that such a model of Project implementation cannot be used if the Project is to move forward. It was agreed that the MOJ and the WB would establish a new **framework and rules for the operation of the PMU**. This new framework, to be prepared as a "Book of Rules" by the MOJ and which should become part of the Operational Manual (*see below*), will need to allow the PMU to effectively conduct the day-to-day management and operations of the Project, including expending resources (up to a limit to be agreed upon between the MOJ and the WB); coordinating activities among donors and Croatian stakeholders, including the Judiciary, bankruptcy trustees and other professionals retaining consultants (with the approval of MOJ), etc. The new rules have to stipulate, at a minimum:
 - The authority of the PMU to initiate procurement, such as preparation of terms of reference and communication and coordination of activities with the beneficiaries under the Project;
 - The authority of the PMU to sign contracts, subject to the relevant Croatian regulations, to a specified limit (to be agreed upon between the MOJ and the WB) in consultation with the MOJ, but without the requirement of a prior written approval. It is understood that the operation of the PMU is subject to MOJ's monitoring and post-review.
 - The ability of the PMU to maintain and effectively use a Project petty cash account which may be used for all legitimate small operating expenditures related to the Project implementation.
 - The ability of the PMU to contact and communicate with all relevant Croatian and international professionals, entities and organizations (whether governmental or private) to further the implementation of the Project and its objectives.

- Precise procedures and clear communication channels between the PW and the MOJ, including clear and effective procedures for accessing Project funds.
- It was recognized that the FMU is doubly accountable - to the MOJ and the Task Team Leader at the WB. It is, therefore, understood that both sides will receive full and complete information on the progress of the Project, its individual activities and any and all other information relevant to the implementation of the Project.
- For the Project to move forward, **two documents** are required by the WB to be prepared and agreed upon between the MOJ and the WB. The WB Team have made drafts of these documents available to the PNIU prior to the Project Launch Mission in March 2002. These documents are:
 - A detailed **Project Implementation Plan (PIP)**. The PIP, a first draft of which was prepared in 2002, should contain a detailed breakdown of activities under the individual Components of the Project, with schedules, timelines and implementation deadlines. The updating of this document and its approval by the WB is of particular importance in light of the new agreements included herein on the individual activities under the five Components of the Project and the adjustments in the implementation arrangements.
 - An **Operational Manual** for the PMU. This document which has already been prepared in a draft form needs to be expanded and Updated and submitted to the WB for approval. This document should detail the procedural and processing aspects of Project implementation, including a clear division of responsibilities in the PMU, reporting requirements to the MOJ and the WB, functioning of the working groups of judges, and access to Project resources. The MOJ needs to provide guidance to the PMU on the relevant applicable procedures. As agreed with the MOJ, this document will incorporate the above mentioned issues of competencies and authorities of the PMU (the Book of Rules)
- In light of the understandings and agreements contained in this Action Plan, the PMU needs to Update the **Procurement Plan** for the individual activities. The Procurement Plan Will be periodically updated by the PMU, at the request of the WB and/or the MOJ, to reflect the developments in the Project and its individual Components,
- To enable the Project to move forward, it was agreed that the **PMU's professional capacity** has to be augmented by immediate hiring of:
 - **IT specialist who could** oversee the implementation of Components I and II. Among his/her responsibilities will be coordination with the MOJ, especially the informatics department for the courts; cooperation with

court liaisons; the preparation of terms of reference, assistance in the selection process of new consultants and subsequent monitoring of their work; and the preparation of hardware specifications. The IT specialist will coordinate closely with the WB and communicate and coordinate with other donors active in Croatia on the issues of information technology.

- **Procurement specialist** who will be responsible for the procurement process in all Components under the Project and who will closely liaise with the WB Task Team Leader and her procurement staff. (it was recognized that the current procurement arrangements - relying on the capacity of the MOF - have not been sufficient.) Alternatively, a short term (3 to 6 months) international procurement expert with detailed knowledge of WB procurement procedures can be engaged for the PMU to handle the pressures of the upcoming intensive project implementation period. During this time, the expert would also train a local PMU staff who would take over the procurement aspects of project implementation after the termination of the short term contract.
- In addition to the informatics and procurement areas, the Croatian authorities have to have the capacity to handle the financial management responsibilities required by the WB for its projects. These strict requirements necessitate the preparation of **detailed quarterly financial, disbursement** and procurement reports by the Government to the WB. So far under the Project - due to the low levels of disbursements these reports were not the focus of WB's attention. Going forward, however, a close attention will be paid to financial reporting. As of now, the *MOF* is responsible for the preparation of the financial reports for the Project. Since the responsible person in the MOF is about to be transferred to a different assignment, it is critical for the MOJ to find an alternative arrangement. This issue needs to be handled in coordination with the MOF. WF3 needs to be notified how financial management reporting will be carried out on an ongoing basis. An appropriate arrangement, satisfactory to the Bank, for financial management is a **condition of WB's further involvement in the Project**.

Having agreed on the understandings and commitments contained in this Action Plan, it is expected that Project activities, including the hiring of the relevant consultants and staff for the PMU will be initiated. For this purpose, a PMU Plan of Actions including schedules and deadlines will be given to the PMU. Based on this Plan, the PMU will be expected to report to the W13 on Project progress, by Component, on a bi-weekly basis.

ACTIONS TO BE TAKEN;

1. Written confirmation by the MOJ that the judges of commercial and municipal courts that participate in the working groups for court case management **automation** have been relieved of 25% of their judicial workload to participate in Project activities.

By end February, 2003

2. Preparation and submission to the WB of the draft rules for the functioning of the PMU (Book of Rules) that will become a part of the Operational Manual.

By mid-March, 2003

- ¹ Finalize and update the Operational Manual and the Project Implementation Plan and submit to the WB for approval

By mid-April, 2003

4. While the rules under (2) above are being developed, empower and enable the PMU to carry out the following activities, including the ability to cover any related expenses:
 - a. Draft TOR and a newspaper add/an nouncement to fill the position of an IT specialist for the PMU - **by end February, 2003**
 - b. **Draft TOR** and a newspaper add/announcement to fill the position of a procurement specialist for the PMU. Alternatively, draft TOR for a short term procurement expert - **by end February, 2003**
 - c. Finalize the specifications and needs assessment for the second **basic** equipment procurement package for four commercial courts (Zagreb, Osijek and Varazdin and the HCQ prepare special procurement notice for UN Development Business and submit the procurement package to the WB for a "no-objection" - by mid-March, 2003
 - d. Draft TOR for an automation consultant under Component A (1) and submit to the WB for a "no-objection" - by **mid-March, 2003**
 - e. Draft terms of reference (TOR) for a consultant to carry out a needs assessment on judicial education (Component I) (IV)); get WB "no-objection" and select a consultant - **by end March, 2003**

Attachment 9: Matrix of Modernization Activities

ATTACHMENT 9
MATRIX OF MODERNIZATION ACTIVITIES

ZAGREB LAND REGISTRY OFFICE

PROPOSED MODERNIZATION ACTIVITIES – December 2001

PROPOSED MEASURES AND ACTIONS

<i>No.</i>	Proposed actions	Accepted	Priority	<u>Remarks</u>
1.	Conducting registration of finalized files into Land Books	YES	1	
2.	Implement an extract order / production / mailing system	YES	1	
3.	Enable lawyer independent access into Land Books	Partially	2	
4.	Extend client service hours and provide reduced service or	YES	2	
5.	Reduce client service days from 5 to 3 days during the week with existing number of LR clerks	NO	-	
6.	Establish a premium fee service to replace rush note system	NO	-	
7.	Obtain revenues to fund a second work shift and overtime pay	YES	1	
8.	Provide client advisory service in the waiting area	YES	3	
9.	Combine extract production with the conversion of Land Books	YES	1	
10.	Set up special teams for systematic Land Book conversion	YES	2	
11.	Set up special teams for resolving backlog	YES	1	
12.	Public Information Campaign	YES	3	
13.	Enable access to other information (Police Department, Cadastre, Commercial Court)	YES	1	

Accepted measures – February 2002

No.	Proposed actions	Priority	<u>Activity</u>	<u>Group Responsible</u>
1.	Conducting registration of finalized files into Land Books	1		
2.	Implement an extract order / production / mailing system	3		
3.	Enable lawyers connecting with database for accessing existing data in the system	6		
4.	Extend client service hours and provide reduced service	5		
5.	Introducing overtime for LR clerk	7		
6.	Provide client advisory service in the waiting area	8		
7.	Combine extract production with the conversion of Land Books	10		
8.	Set up special teams for systematic Land Book conversion	12		
9.	Set up special teams for resolving backlog	9		
10.	Public Information Campaign	11		
11.	Enable access to other information (Police Department, Cadastre, Commercial Court)	2		
12.	Management reorganization	4		

Kiralj's priorities are noted above

Realization of tasks through subprojects:

Subproject	Description	Prerequisites
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5.	Install SW and protocol for accessing database	MOJ-software support
6.	Program on training or usage of the system	MOJ/Booz
7.	Training users and administrative staff	MOJ-software support

No.	P5 – Management Reorganization	Group Responsible
1.	Description of every activity in reorganization process	Booz
2.	Develop a plan on functionality of teams	LR Office/Booz
3.	Description of activities for resolving/registering teams	LR Office/Booz
4.	Description of activities for request teams	LR Office/Booz
5.	Analyses of work shifts and staff rotation (See P7, 1 & 2)	LR Office/Booz
6.	Adopting Reorganization Plan	Court/LR Office
7.	Develop Communication Procedure within LRO	LR Office/Booz
8.	Develop Training Plan	LR Office/Booz
9.	Develop Work Plans and Appraisal System	LR Office/Booz
10.	Develop a strategy plan on implementing the reorganization	Court/LR Office/Booz

No.	P6 - Computerization	Group Responsible
1.	Implementing word processor on clerks desktop for daily use	LR Office
1.1.	Develop forms and define file processing	LR Office/Booz
1.2.	Develop forms by using computers	LR Office/Booz
1.3.	Providing training to clerks on using forms	MOJ-software support
1.4.	Implementation of File Server	MOJ-software support
1.5.	Providing training to judges and assistance for continuing file processing	MOJ-software support
2.	Judges offices updating Z-plomb entries (Z-pisarnica)	
2.1.	Upgrading Z-plomb entry program (Z-pisarnica) and providing technical support to judges	MOJ-software support
2.2.	Plan of giving authorization to judges and allowing access to land information for maintaining	LR Office/Booz/ MOJ-software support
2.3.	Implementing a procedure in assigning and changing passwords	LR Office/Booz/ MOJ-software support
2.4.	Provide training to judges on maintaining Z-plomb entry program (Z-pisarnice)	MOJ-software support
2.5.	Provide training to judges for accessing the Z-plomb entry program and for keeping statistics on own cases	MOJ-software support

No.	P7 – Reducing registration backlog	Group Responsible
1.	Prepare a written request for overtime to Ministry of Justice	Booz / Sessa
2.	Request for approval and financing the overtime for reducing the registration backlog	Court/MOJ
3.	Management Organization and Work Control during overtime (based on P6)	LR Office/Booz
4.	Keeping statistics on work performance	LR Office/Booz

No.	P8 – Data conversion	Group Responsible
1.	Prepare a written request for overtime to Ministry of Justice	Booz / Sessa
2.	Request for approval and financing the overtime for undertaking data conversion	Court/MOJ

	cadastral municipalities	
4.	Identify difficult entries that will need restructuring before data conversion	LR Office/Booz
5.	Prepare options and solutions for converting difficult entries into database	LR Office/Booz
6.	Adopt instructions for data conversion	LR Office/Booz
7.	Develop instructions for converting condominiums	LR Office/Booz
8.	Provide clerk training for data conversion	MOJ-software support
9.	Develop a plan of systematic data conversion by cadastral municipalities	Court/LR Office/Booz
10.	Prepare a work process outline with sporadically entered LR Records	LR Office/Booz
11.	Define a method for data conversion – enforcer or possible outside help and apply best practices from other courts	LR Office/Booz
12.	Rewrite and data conversion	LR Office
13.	Entry of plumbs and old backlog files into Z-plomb entry program (Z-pisarnica)	LR Office

No.	P9 - System of ordering/producing extracts – client services	Group Responsible
1.	Process specification for groups providing services to clients (from P5-4)	LR Office/Booz
2.	Develop a plan of functionality of teams and description of tasks for each team	LR Office/Booz
3.	Subsystem specification for receiving requests for extracts	LR Office/Booz
4.	SW support for system of ordering extracts	LR Office/Booz
5.	Procedure specification for collecting extracts	LR Office/Booz
6.	Procedure specification for uncollected extracts	LR Office/Booz
7.	Procedure specification for data conversion and production of ordered extracts (goes with P8)	LR Office/Booz/MOJ-software support
8.	Analyses of possibility to work in shifts and people rotation	LR Office/Booz
9.	Implementing the extract ordering system	Court/LR Office

No.	P10 – Updating land data	Group Responsible
1.	Define a new work process for clerks and judges	Booz/ MOJ-Software support
2.	Provide clerk training on maintaining the database	MOJ-Software support
3.	Upgrade the SW with an option for automatically generating resolutions	MOJ-Software support
4.	Introduce new work procedures for automatically producing extracts and for querying records	LR Office/Booz
5.	Extend technical support on additional computers	MOJ

No.	P11 - Merging Zs data with Z and creating unique LRDB of the MOJ	Group Responsible
1.	Analyse the data model and the process of the existing system	MOJ – Software support

2.	Prepare a request in detail for additional changes	LR Office
3.	Develop a new SW solution	MOJ – Software support
4.	Testing and valuating the new program	LR Office/Booz
5.	Create a plan to convert existing data from old into a new system	MOJ – Software support
6.	Provide training to clerks on using new program	MOJ – Software support
7.	Analyze the installed equipment and verify if additional upgrade is required	MOJ – Software support
8.	Preparations for installing – equipment and communication	MOJ – Technical support
9.	Conversion and implementation of the new program	MOJ – Software support

USAID – COMMERCIAL LAW PROJECT

TECHNICAL ASSISTANCE TO ZAGREB LAND REGISTRATION OFFICE

Attachment 10:
List of Forms for LRO

ATTACHMENT 10

LIST OF FORMS FOR LRO

Form 1 - 1_Simple resolution
Form 2 - 10_Propos with Resolut_fiduciary transfer
Form 3 - 11_General Proposal 1
Form 4 - 12_Transfer of ownership 1
Form 5 - 13_Discharge
Form 6 - 14_Charge
Form 7 - 2_Short rejection resolution
Form 9 - 4_Submission
Form 10 - 5_Withdraw proposal
Form 11 - 6_Check list
Form 12 - 7_Inheritance
Form 13 - 8_Proposal with resolut_template-Kiralj-Eng
Form 14 - 9_Mortgage1_rewrite
Form 15 - Additional documents
Form 16 - Cancellation of mortgagE
Form 17 - Cancellation of plumb No
Form 18 - Case for extract window
Form 19 - Generic
Form 20 - Generic
Form 21 - Plumb cancelL
Form 22 - Plumb cancel test
Form 23 - Registration and recordation
Form 24 - Registration of mortgage
Form 25 - Request for Service_version6
Form 26 - Request Order System Flow
Form 27 - Resolutions
Form 28 - Rushnote
Form 29 - Simple Order
Form 30 - Z proposal
Form 31 - Zs proposal
Form 32 - Kalendar-previous records
Form 33 - Kalendar-previous records-test
Form 34 - Z-Kal Resolution-Request for Supple v2
Form 35 - Z-Resol on Cancellation of Mortgage v2
Form 36 - Z-Resol on Entering Fiduc. Ownership v2
Form 37 - Z-Resol on Ownership Registration v2
Form 38 - Z-Resol on Registering Mortgage v2
Form 39 - Z-Resol on Rejecting Request v2
Form 40 - Z-Resol on Rejection with Cancel. of Plomb v2
Form 41 - Z-Resol on Rejection with Notification v2

**Attachment 11-1:
Implementation Plan (draft
version 1.0) Data Conversion and
Use of Electronic Land Books**

ATTACHMENT 11 -1

December 4, 2002

IMPLEMENTATION PLAN (DRAFT VERSION 1.0)

DATA CONVERSION AND USE OF ELECTRONIC LAND BOOKS

ZAGREB LAND REGISTRATION OFFICE

General:

Discussions between Judge Zivkovic, Sacha Kiralj and Booz-Allen-Hamilton (BAH) have concluded that the following implementation plan will be followed with the systematic and sporadic electronic conversion of the Land Books and also with the verification of the existing data converted by the BAH Team. This implementation plan may be modified at any time by agreement between LRO Management and BAH. The areas of activity defined by this plan deal with;

- A) Training
- B) Support from BAH Team
- C) Priorities of areas within Zagreb
- D) Categories of Land Book records
- E) Numbers of Clerks working on different aspects of conversion
- F) Integration of conversion and use of electronic data into daily activities
- G) Process of verification of electronic records and sign off
- H) Overtime data conversion plan
- I) Security and system privileges

A) TRAINING

Following the completion of a questionnaire by all staff at the LRO in late November 2002 it was concluded that all staff are familiar with MS Windows and MS Word and no formal training will be required in these areas. Judges will be interviewed separately to verify their needs for Windows and Word training.

The majority of staff are familiar with the Z submission software and, other than selected staff, there is no need for a comprehensive training program for this application.

The new file tracking software application will be demonstrated to the LRO early in December 2002 and a training program will be presented by IGEA for the use of this application in mid December and early January 2003. LRO management will make the decision on which staff will receive training on the use of the file tracking software.

Selected staff will be trained on the use of the electronic resolution forms and the file management system. (These staff will include Judges, Judges Admin. Assistants and resolving Clerks). This training will take place

in December 2002 and January 2003 and will be provided by Ivan Novak of the BAH team and other selected Judges Assistants. LRO management will provide the names of staff to receive this training.

A demonstration of the modified electronic land book for condominium entry (MoJ software application) was demonstrated to the LRO management and senior staff December 3, 2002 and accepted. Training will now be arranged for selected staff on the use of the electronic land book software (ELB) for data conversion and for general use of the data in daily activities. Refer to the ELB training approach below for details

ELB Training Approach Proposed

1. Select 15 of the most computer literate Clerks that are in the position to conduct data conversion or to begin the data verification procedure
2. Arrange for IGEA to provide ELB and data conversion training to this group of 15 Clerks
3. Certificates will be issued to staff that have successfully completed the training
4. If of this group of 15 Clerks IGEA identifies a number that are having difficulty with the training an additional group of 10 Clerks will be trained and the strongest of this group will be selected to start with the data conversion and the verification and use of the ELB data.
5. Once this first group of Clerks is comfortable with the data conversion and the use of the ELB a second group of 15 Clerks will be selected and training provided by IGEA or one or two senior Clerks in the LRO.
6. Once the second group is comfortable then a third and fourth group of staff, etc. will receive training either from IGEA or experienced Clerks until all the necessary staff have received the necessary training. The pace of this training will depend on how much time is required for the previous groups to achieve a level of comfort with the ELB use.

B) Support from BAH Team

The BAH data conversion Team are prepared to provide any needed support and mentoring to Clerks that have completed the IGEA training for data conversion and the use of the ELB data.

1. The BAH data conversion team will work with this first group of Clerks to provide needed assistance with the data conversion and use of the ELB data.
2. The BAH team (5 technical and 1 former Clerk) will provide mentoring and support to this first group of LRO Clerks five staff at a time or they can rotate and provide assistance to all of the first group of Clerks on an as needed basis.
3. The BAH team will be available during daily hours to provide this support or in the evenings during overtime hours. This will be determined by negotiation between LRO management and BAH.
4. When the next group of Clerks have received the ELB training from IGEA the BAH team will provide the same mentoring and support to the newly trained group of Clerks on an as needed basis.
5. The above arrangement will continue until all the necessary staff are comfortable with the use of the ELB.

C) Priority Areas Within Zagreb

The following municipalities have been identified as the top priorities for systematic data conversion by LRO management.

1. Grad Zagreb
2. Municipality of Trnje
3. LRO Management will determine the additional priority municipalities for systematic data conversion at the appropriate time.
4. Systematic data conversion will be conducted by BAH team when they are not occupied with providing support and assistance to Clerks learning ELB and conducting data conversion, by Clerks during overtime hours and by a small team of Clerks during daily hours when possible

D) Categories of Land Book Records

It has been decided that the conversion of condominiums is a high priority for the LRO. The categories of electronic Land Book records in order of priority have been defined for initial purposes as;

1. Grad Zagreb
2. Condominiums in any cadastral municipality (at first start with entering condominiums for Grad Zagreb)
3. Existing ELB municipalities converted by BAH Team
4. Other Cadastral Municipalities

E) Numbers of Clerks Working on Data Conversion

The numbers of Clerks working on ELB data conversion or verification will vary depending on the number of Clerks trained, the number of Clerks that are able to include data conversion and data verification in their daily activities, and the number of Clerks working overtime.

It is agreed however that the general portions of Clerks and the BAH Team will be devoted to the ELB activities as follows;

1. Systematic data conversion in Grad Zagreb – 60% of resources
2. Systematic or sporadic conversion of Condominium records – 30% of resources
3. Verification of existing ELB records converted by BAH Team – 10% (it is proposed that extract production Clerks, resolving Clerks and registration entry Clerks first check to see if a ELB record exists for the land book record they are dealing with and conduct a verification and sign off of that ELB record) This may increase by default the actual percentage of resources that are devoted to ELB records verification.

F) Data Conversion in Daily Activities

As Clerks are trained and become comfortable with the data conversion of ELB records and the use of the ELB then data conversion and data verification for the ELB will be part of the daily functions of the LRO. The three primary areas of daily activities that will make use of the ELB records are;

1. Production of extracts for clients
2. Registration entry into Land Books
3. Resolving of files
4. General Searches of Land Books by Clerks

It is proposed in these four activity areas that, where practical, every effort be made by Clerks when they are reviewing land books to do the following;

1. Check if an ELB record exists for the Land Book record they are dealing with
2. If the ELB record exists do a verification check on accuracy
3. Make any corrections or additions to the ELB record and sign off (see procedure below)

For the production of extracts it is suggested that for most of the extracts ordered that they be produced through automated means. First a check is made by the Clerk to see if the ELB record exists either in provisional or final form. Conduct any necessary verification and sign off of the ELB record before generating the extract from the database. If no ELB record exists it is recommended that the extract production clerk conduct a Land Book record conversion to create an ELB record and produce the extract automatically.

G) Verification Process and Sign Off

It is critical that the proper verification and sign off procedure be followed by Clerks working in Data Conversion and use of ELB records. The following procedure must be adhered to;

1. When Clerk conducts the conversion of the Land Book record the Clerks name or identifier and the date of conversion is indicated with the ELB database record
2. The Land Book record must be marked or stamped with the date of conversion by the same Clerk conducting the conversion
3. For ELB records previously converted by the BAH team the Clerk that has verified the conversion will do the same as indicated above in point 1 & 2.

LRO management will decide on how the Land Book record page shall be marked by the Clerk.

A quality control procedure will be decided by LRO management in consultation with BAH to arbitrarily select records that have been converted and signed off by a Clerk for examination. The target should be that eventually 3% of the ELB records be quality control checked. The quality control procedure should note the specific ELB record checked and by which Clerk.

In the day to day use of ELB records if errors are noticed by any Clerk or other staff the error should be noted and an error form with details completed by the Clerk or staff member identifying the error and these forms submitted to the Registrar who will arrange for the correction to be undertaken by a designated Clerk.

H) Overtime Data Conversion Plan

During overtime the team of Clerks will conduct a systematic conversion of Land Book records in accordance with the guidelines under number C) above. LRO management can set different priorities for the overtime team conducting data conversion as the needs demand.

I) SECURITY AND SYSTEM PRIVILEGES

It is essential that all users of the ELB records use their own user names and passwords. For those who will be conducting verification and data conversion which will be a large number of Clerks initially it is very important that the Clerk conducting any editing or new creation of the ELB records be logged correctly by the database so that all changes can be associated to the specific Clerk making the change.

LRO management must establish a firm policy on this that will include;

1. Name of Clerk with editing privileges on the ELB records
2. Set out procedures for logging off from system when Clerk is away from their desk
3. Procedure for reporting any suspicious activity by any staff editing ELB records

LRO management can change user privileges at any time so that the proper control is always maintained over the changes to the ELB records.

**Attachment 11-2:
Zagreb Land Registry Office—
IT System Maintenance**

ATTACHMENT 11-2

Zagreb Land Registry Office – IT System Maintenance

SYSTEM MONITOR DUTIES

- ❑ Perform Back Up of Z and Zs data entry on a daily basis (incremental back up with rotation of three tapes and off site arrangement for storing tapes once per week in the Municipal Court Building)
- ❑ Receive complaints and problems from users regarding the operation of computers and printers and when necessary contact technical support services people to correct the problem
- ❑ Report any serious technical problems to Judge Zivkovic immediately and subsequently contact technical support services people for rapid response to problem

SYSTEM ADMINISTRATION REQUIREMENTS (HOUSEKEEPING ITEMS)

- ❑ Temporary System administrator from MOJ
- ❑ Antivirus installation and upgrade, weekly antivirus scan
- ❑ Shutdown procedure for power failure
- ❑ Shutting workstations off in the evening
- ❑ Printer supplies and other accessories (secretary)
- ❑ User Privileges for editing

EDP IMPLEMENTATION STRATEGY CONSIDERATIONS

- ❑ Procurement Schedule
- ❑ MOJ software phase in plan
- ❑ Phased data conversion
- ❑ Automated production of extracts
- ❑ Training
- ❑ Zs data migration

**Attachment 11-3:
Zagreb Municipal Court Land
Registry Office System—
Administrative Manual**

ATTACHMENT 11-3

ZAGREB MUNICIPAL COURT

LAND REGISTRY OFFICE

SYSTEM-ADMINISTRATIVE MANUAL

Version 01/2001

Updated April 2001

CONTENTS:

1. FEATURE
2. SECURE DATA COPYING
3. SYSTEM SHUT-DOWN AND BOOT-UP
4. Roules of procedure
 - Regular work
 - Switching on and switching off of the computer system
 - Report to technical support
5. ROULES OF SECURITY
6. ASSIGNING OF THE ACCESS AND THE AUTHORITY
7. DIAGRAM OF THE COMPUTER SYSTEM KONFIGURATION

FEATURE

In the IS for the work support of the LRO exists identified roles of particular personal from which one of them are within the framework of internal recourses and the other are the external recourses.

User – a person who is using IS Land Books in its work. It is the LRO employee but in the future it could be the clients. The case would be to provide them with direct and autonomous but limited access to the data through PC that are located on a special place. The users need to have permission to access the computer system, through which is defined their authority in accessing or registration and changing the data.

Internal group for the administration – one or more person that is qualified for basic administrative procedures that are continually conducted in the LRO.

Basic tasks are including:

- Daily switching on and switching off the server of database
- Pursuing of secure copy of data
- Get in touch with external technical support in case of report about problems notified by final user
- Make report for management of L.R. Office about essential problems, request of final user or executed activity

Aplicative support – institution for dealing with problems and giving the professional informatic help in work with installed application were defined by the Ministry of Justice. Requests for applicative support are directed by internal group for administration or by management of L.R. Office.

Technical support – institution for dealing with problems on hardware were defined by Ministry of Justice. It exist one contact address were anybody may report this type of failure or/and breakdown, and it is possible to make a special authority for dealing with problems connected with computer work, peripheral unit (printer) and communication net.

Requests for applicative support are directed by internal group for administration or by management of L.R. Office.

System administrator – a person or institution for regular and preventive execution of standard business of system administrator defined by Ministry of Justice. This authority consist of:

- Control on the work of the IS, adjust variables for the purpose of the optimal work
- Control of the installation of systemic software
- Antivirus installation and upgrade, and weekly antivirus scan

- Control of the hanging on to prescribed procedure of working by staff in L.R. Office.
- Control of the secure data copying, status of medium and it's watch over
- Executing the recovery of system in case the machinery falls
- Executing the recovery and renewing of data base (Data Base Recovery) in case of their obstruction and losses, in cooperation with aplicative support

2. SECURE DATE STORING

3. SYSTEM SHUT-DOWN AND BOOT-UP

The provider of application that is used has specially prescribed those procedures.

Now those are two procedure:

- Procedure for work on windows NT servers and Oracle data base which is used by Z section
- Procedure for work with Novell server and ZIM data base which is used by ZS section

4. THE RULES OF PROCEDURE

Daily work

During daily work the employees are using computers in two ways:

1. As personal work station that is installed at the work place of the employee
2. As separate resource, well, as the PC with the access rights of other employees that need the access to data.

In both work modus, the employee is registering himself into the system with assigned personal or joint password, depending on the type of work that computer is used.

In case of using personal password which means possibility to change data (registration and implementing changes), the obligation would be to checkout from the system. This is especially concerned for computers that can be used by other employees.

The reason is to avoid eventually execution of changes under borrowed password.

Switching on and switching off of the computer system

The switching on and switching off of the computer that is used by one employee is in his obligation.

To switch off of the computer that can be used jointly or separately is the obligation of the user that uses computer at the end of working hours.

To use computer out of office hours has to be allowed by the Head Registrar within the obligation for switching on and off of the computer and his periphery users as the printers.

In case of power failure it is necessary to use the peripheral devices at the minimum volume to increase the time for system to function on the batteries. From the experience the system can function for at least 4 in regime without outside charging (Z and Zs).

Informing applicative and technical support

In case of appearing a problem in the work of the computer system, either system or applicative computer software or computer equipment an authorized persons for technical support has to be notified: current authorized persons are Silvija Krivić and Željka Maček. This type of information will be in time notified and refered to institutions that are entrust to provide technical support.

5. SECURITY RULES

The Information System can be used only for work purposes:

1. It is prohibit installing any additional or backup programs as well the games.
2. It is prohibit using any magnet mediums for transfers of data except under supervision and screen of the medium.
3. It is prohibit accessing Internet uncontrolled except within the official described procedure.

Hereby, we prevent the System from the possibility of acquiring computer viruses.

6. GRANTATION OF ACCESS AND AUTHORIZATION

Grantation of access and authorization of using the IS depends on the:

- Application or application module which can be used independently
- Organizational structure and position of individual final user
- Location of single computer, specially in the transitional period when local computer net (LAN) is not homogeneous
- Operational system and systematic software that is on the single work station

AUTHORITY OF GIVING LICENSE FOR ACCESS	
<u>Voditelj ZK odjela</u>	Organizational structure, works, tasks and authority of individual final user in terms of <u>functionality</u>
Aplicative support	Giving license on the level of single application, based on the organizational structure of authority
System administrator	Giving license on the level of operational system and <u>RDBMS</u>
System administrator	Giving license for execution the systematic administrator business, including the license for access to external data base or access to external users using telecommunication(modem)

Attachment 12:
Leadership Development
Workshop I

ATTACHMENT 12

LEADERSHIP DEVELOPMENT WORKSHOP I. December 4, 2001.

BEGINNING AT 13:00

- 13:00 - 13:30 Opening (max. 10 minutes)
- 13:30 - 14:15 Introduction
- 14:15 - 15:15 Why managers often fail?
- 15:15 - 15:30 *Break around 15:15, duration 15 min.*
- 15:30 - 16:30 Power
- 16:30 - 17:30 Giving and receiving feed-back

CLOSE AROUND 17:30

At the end of the day, the attendees will be given a homework. There will be two tasks, the one in the area of Modifying Behaviour, the other in Motivation. There are no correct or incorrect, good or bad results, there will be no evaluations of the results. Individual results will remain anonymous and will be used during the Workshop II.

The attendees will be kindly asked to observe the following

- During the program, mobile phones should stay switched off; they might be used during breaks, before and after the daily program;
- Punctuality will be observed to the minute;
- No smoking in the premises.

DEVELOPEMENT OF MANAGEMENT SKILLS

WORKSHOP II

11. December 2001.

14:00- 16:00	Motivation
16:00- 16:15	<i>break</i>
16:15- 17:45	Change of behavior
17:45- 18:00	Conclusion, Closure

LEADERSHIP DEVELOPMENT

WORKSHOP III & IV

December 19/20, 2001

Workshop III – December 19, 2001

14:00- 15:15	Team and its development phases
15:15- 15:30	Team decision-making process (Introduction)
<i>15:30- 15:45</i>	<i>Break</i>
15:45- 16:45	Team decision-making process (Group Activity I.)
16:45- 18:00	Team decision-making process (Group Activity II.)

Workshop IV – December 20, 2001

14:00- 14:30	Situation Leadership (Introduction)
14:30- 15:30	Situation Leadership (Group Activity)
<i>15:30- 15:45</i>	<i>Break</i>
15:45- 16:45	Team Roles
16:45- 17:30	Team Roles (Individual Activities)

17:30- 17:45	Wrap-Up, Closing
-----------------	------------------

Attachment 13:
Land Registry Brochure

ATTACHMENT 13
LAND REGISTRY BROCHURE #1
(See Next Page)

DOKUMENTI ZA UPIS

Stranke često podnose prijedloge za zemljišnoknjižne transakcije sa nepotpunom dokumentacijom. Nepotpuni podnesci jedan su od razloga rastućem broju zaostataka. Da bi se poboljšala obrada zahtjeva, stranke moraju podnijeti svu odgovarajuću dokumentaciju zajedno s prvim prijedlogom.

Ova brošura popisuje potrebne isprave i pristojbe za različite vrste prijedloga u Z sustavu upisa - glavna knjiga.

Stranke koje podnesu nepotpune isprave dobit će upute, koje objašnjavaju koje isprave nedostaju ili su nepotpune. Time će se uveliko odužiti postupak upisa u zemljišne knjige.

Kompletna dokumentacija pomoći će Zemljišnoknjižnom odjelu da Vas usluži brže i učinkovitije.

Da biste imali što preciznije pripremljene isprave, koje su potrebne za upis, preporuča se prethodno zatražiti pravnu pomoć od ovlaštenih osoba (odvjetnici, javni bilježnici).

Općinski sud u Zagrebu
Zemljišnoknjižni odjel
Zgrada Nacionalne i sveučilišne biblioteke
Hrv. bratske zajednice b.b.
Uredovno vrijeme
Gradani: 08:00 - 11:30
Odvjetnici/Bilježnici: 12:00 - 14:00

Sponzorirano od USAID-a

OBAVEZNO:

Sve isprave moraju biti dostavljene u izvorniku ili čitljivom, propisno ovjerenom prijepisu (osim domovnice i osobne iskaznice koje se prilažu u presliku, a izvornik se daje samo na uvid).

***Onaj čije se pravo ograničava, opterećuje, ukida ili prenosi na drugu osobu mora izvršiti ovjeru potpisa.**

Ako Vas u postupku zastupa odvjetnik potrebno je priložiti uredno popunjenu odvjetničku punomoć (navesti vrstu radnje, broj spisa ili prezime i ime stranaka).

Ako Vas zastupa opunomoćenik kod sklapanja pravnog posla obavezno je priložiti punomoć s izvršenom ovjerom potpisa osobe koja je izdala punomoć. Ako nije sređeno ZK stanje i nije upisan Vaš pravni prednik potrebno je ispravama dokazati neprekinuti niz izvanknjižnih stjecanja do sebe. Kod odlučivanja o Vašem prijedlogu mjerodavno je ZK stanje u vrijeme kada je taj prijedlog stigao ZK odjelu.

NAPOMENA:

Prije bilo koje ZK transakcije provjeriti stanje u Z.K. Zatražiti novi izvadak iz zemljišne knjige (Z.K.) Tako se saznaje upisani vlasnik i opterećenost nekretnine (upisana hipoteka, prava služnosti, upotrebe, zabrane i sl.).

Ovisno o stanju u Z.K. mogli bi se zahtjevati dodatni dokumenti.

Kod sastavljanja ugovora treba se koristiti opisom nekretnina iz ZK izvataka.

PRISTOJBA:

Za iznos do 100,00 kn plaća se u državnim bilježima. Iznad 100,00 kn uplatnicom na račun Državnih sudskih pristojbi.

Biljezi i uplatnice mogu se kupiti na zasebnom šalteru u odjelu.

Zagreb, 25.01.2001.



OPĆINSKI SUD U ZAGREBU
ZEMLJIŠNOKNJIŽNI ODJEL



STVARNIH I DRUGIH PRAVA

U ZEMLJIŠNE KNJIGE (Z)

UKNJIŽBA:

- ❖ **DAROVANJE**
 - ☐ Prijedlog (2x)
 - ☐ Ugovor o darovanju*
 - ☐ Dokaz o državljanstvu stjecatelja (domovnica, osobna iskaznica, putovnica)
 - ☐ Pristojba od 250,00 kn
- ❖ **FIDUCIJARNI PRIJENOS**
 - ☐ Prijedlog (2x)
 - ☐ Ugovor ili sporazum solemniziran kod javnog bilježnika
 - ☐ Pristojba - oslobođena
- ❖ **HIPOTEKA**
 - ☐ Prijedlog (2x)
 - ☐ Ovjereni ugovori o kreditu*
 - ☐ Pristojba od 250,00 knUknjižba je oslobođena pristojbe ako je isprava javnobilježnički solemnizirana
- ❖ **KUPOPRODAJA**
 - ☐ Prijedlog (2x)
 - ☐ Ugovor o kupoprodaji*
 - ☐ Dokaz o državljanstvu stjecatelja (domovnica, osobna iskaznica, putovnica)
 - ☐ Pristojba od 250,00 kn

❖ **OSTAVINA**

- ☐ (Službeno): rješenjem o naslijeđivanju uknjižba se vrši automatski
- ☐ (Stranka):
 - ☐ Prijedlog (2x)
 - ☐ Rješenje o naslijeđivanju s klauzulom pravomoćnosti
 - ☐ Matični broj nasljednika
 - ☐ Pristojba od 50,00 kn

❖ **PRIVREMENA MJERA**

- ☐ (Službeno): vrši se automatskim putem
- ☐ (Stranka):
 - ☐ Prijedlog (2x)
 - ☐ Dokaz od strane suda (Rješenje)
 - ☐ Pristojba od 100,00 kn

**Onaj čije se pravo ograničava, opterećuje, ukida ili prenosi na drugu osobu mora izvršiti ovjeru potpisa.*

❖ **ZAMJENA**

- ☐ Prijedlog (2x)
- ☐ Ugovor o zamjeni*
- ☐ Pristojba od 250,00 kn

❖ **PARCELACIJA**

- ☐ Prijedlog (2x)
- ☐ Prijavni list s kopijom katastarskog plana
- ☐ Pristojba od 50,00 kn

❖ **DIOBA-RAZVRGNUĆE SUVLASNIŠTVA**

- ☐ Prijedlog (2x)
- ☐ Diobni ugovor*
- ☐ Pristojba od 50,00 kn

❖ **OBJEKTA**

- ☐ Prijedlog (2x)
- ☐ Prijavni list sa kopijom plana
- ☐ Građevinska i uporabna dozvola s klauzulom pravomoćnosti
- ☐ Pristojba od 250,00 kn

❖ **ETAŽIRANJE**

- ☐ Prijedlog (2x)
- ☐ Etažni elaborat potvrđen po nadležnom tijelu graditeljstva
- ☐ Međusuvlasnički ugovor* (ako se radi o više suvlasnika)
- ☐ Ovjeren očitovanje (ako se radi o jednom vlasniku)
- ☐ Pristojba od 250,00 ili 50 kn ovisno o prijedlogu

❖ **PRETVORBA**

- ☐ Prijedlog (2x)
- ☐ Novi izvod iz registra Trgovačkog suda
- ☐ Rješenje Hrvatskog fonda za privatizaciju
- ☐ Rješenje o iskazu nekretnina
- ☐ Pristojba od 250,00 kn

BRISANJE:

❖ **DOŽIVOTNOG UŽIVANJA**

- ☐ Prijedlog (2x)
- ☐ Smrtni list
- ☐ Izjava o dobrovoljnom odricanju s izvršenom ovjerom potpisa
- ☐ Pristojba od 50,00 kn

❖ **MALODOBNOSTI**

- ☐ Prijedlog (2x)
- ☐ Rodni list (JMBG)
- ☐ Pristojba od 50,00 kn

❖ **ZABILJEŽBE SPORA**

- ☐ (Službeno): vrši se automatskim putem
- ☐ (Stranka):
 - ☐ Prijedlog (2x)
 - ☐ Rješenje/Odluka suda
 - ☐ Pristojba od 50,00 kn

❖ **HIPOTEKA**

- ☐ Prijedlog (2x)
- ☐ Izjava o brisanju ili brisovno očitovanje s izvršenom ovjerom potpisa vjerovnika (ako pravnu osobu predstavlja fizička osoba onda se zahtjeva i potvrda iz registra Trgovačkog suda o ovlaštenju fizičke osobe)
- ☐ Pristojba od 50,00 kn

❖ **PRIVREMENE MJERE**

❖ **DRAŽBE**

❖ **DRAŽBENOG ROČIŠTA**

- ☐ Vrši se službenim putem

ISPRAVAK:

❖ **ADRESE STANOVANJA**

- ☐ Prijedlog (2x)
- ☐ Uvjerenje o promjeni adrese stanovanja (MUP)
- ☐ Pristojba od 50,00 kn

❖ **BROJA KATASTARKE ČESTICE, KUĆNOG BROJA I NAZIVA ULICE**

- ☐ Prijedlog (2x)
- ☐ Uvjerenje od katastra (Prijavni list)
- ☐ Pristojba od 50,00 kn

ZABILJEŽBA:

❖ **SPORA**

- ☐ Prijedlog (2x)
- ☐ Dokaz da se vodi postupak (kod suda ili drugog nadležnog tijela - Napis tužbe)
- ☐ Pristojba od 100,00 kn

❖ **STARATELJSTVA**

- ☐ Prijedlog (2x)
- ☐ Rješenje Centra za socijalnu skrb s klauzulom pravomoćnosti
- ☐ Pristojba od 50,00 kn

❖ **UGOVORA O DOŽIVOTNOM**

UZDRŽAVANJU

- ☐ Prijedlog (2x)
- ☐ Ugovor*
- ☐ Pristojba od 100,00 kn

Attachment 14:
Land Registry Brochure

ATTACHMENT 14
LAND REGISTRY BROCHURE #2
(See Next Page)

DOKUMENTI ZA UKNJIŽBU

Stranke često podnose prijedloge za zemljišnoknjižne transakcije sa nepotpunom dokumentacijom. Nepotpuni podnesci jedan su od razloga rastućem broju zaostataka. Da bi se poboljšala obrada zahtjeva, stranke moraju podnijeti svu odgovarajuću dokumentaciju zajedno s prvim prijedlogom.

Ova brošura popisuje potrebne isprave i pristojbe za različite vrste prijedloga u Zs sustavu upisa - knjiga "Položenih ugovora".

Stranke koje podnesu nepotpune isprave dobit će upute, koje objašnjavaju koje isprave nedostaju ili su nepotpune. Time će se uveliko odužiti postupak uknjižbe.

Kompletna dokumentacija pomoći će Zemljišnoknjižnom odjelu da Vas usluži brže i učinkovitije.

Da biste imali što preciznije pripremljene isprave, koje su potrebne za upis, preporuča se prethodno zatražiti pravnu pomoć od ovlaštenih osoba (odvjetnici, javni bilježnici).

Općinski sud u Zagrebu
Zemljišnoknjižni odjel
Zgrada Nacionalne i sveučilišne
biblioteke
Hrv. bratske zajednice b.b.
Uredovno vrijeme
Gradani: 08:00 - 11:30
Odvjetnici/Bilježnici: 12:00 - 14:00

Sponzorirano od USAID-a

OBAVEZNO:

Sve isprave moraju biti dostavljene u izvorniku ili čitljivom, propisno ovjerovljenom prijepisu (osim domovnice i osobne iskaznice koje se prilažu u presliku, a izvornik se daje samo na uvid).

***Onaj čije se pravo ograničava, opterećuje, ukida ili prenosi na drugu osobu mora izvršiti ovjeru potpisa.**

Ako Vas u postupku zastupa odvjetnik potrebno je priložiti uredno popunjenu odvjetničku punomoć (navesti vrstu radnje, broj spisa ili prezime i ime stranaka).

Ako Vas zastupa opunomoćenik kod sklapanja pravnog posla obavezno je priložiti punomoć s izvršenom ovjerom potpisa osobe koja je izdala punomoć. Ako nije sređeno ZK stanje i nije upisan Vaš pravni prednik potrebno je ispravama dokazati neprekinuti niz izvanknjižnih stjecanja do sebe. Kod odlučivanja o Vašem prijedlogu mjerodavno je ZK stanje u vrijeme kada je taj prijedlog stigao ZK odjelu.

NAPOMENA:

Prije bilo koje ZK transakcije provjeriti stanje u ZK. Zatražiti novi izvadak iz zemljišne knjige (Z.K.) Tako se saznaje upisani vlasnik i opterećenost nekretnine (upisana hipoteka, prava služnosti, upotrebe, zabrane i sl.).

Ovisno o stanju u Z.K. mogli bi se zahtijevati dodatni dokumenti.

Kod sastavljanja ugovora treba se koristiti opisom nekretnina iz ZK izvataka.

PRISTOJBA:

Za iznos do 100,00 kn plaća se u državnim biljezima. Iznad 100,00 kn uplatnicom na račun Državnih sudskih pristojbi. Biljege i uplatnice mogu se kupiti na zasebnom šalteru u odjelu.

Zagreb, 25.01.2001



OPĆINSKI SUD U ZAGREBU
ZEMLJIŠNOKNJIŽNI ODJEL



UKNJIŽBA:

✦ DAROVANJE

- ☐ Prijedlog
- ☐ Ugovor o darovanju*
- ☐ Dokaz o državljanstvu stjecatelja (domovnica, osobna iskaznica, putovnica)
- ☐ Pristojba od 250,00 kn

✦ FIDUCIJARNI PRIJENOS

- ☐ Prijedlog
- ☐ Ugovor ili sporazum solemniziran kod javnog bilježnika
- ☐ Pristojba - oslobođena

✦ HIPOTEKA

- ☐ Prijedlog
 - ☐ Ovjerni ugovori o kreditu*
 - ☐ Pristojba od 250,00 kn
- Uknjižba je oslobođena pristojbe ako je isprava javnobilježnički solemnizirana

✦ KUPOPRODAJA

- ☐ Prijedlog
- ☐ Ugovor o kupoprodaji*
- ☐ Dokaz o državljanstvu stjecatelja (domovnica, osobna iskaznica, putovnica)
- ☐ Pristojba od 250,00 kn

✦ OSTAVINA

- ☐ (Službeno): rješenjem o naslijeđivanju uknjižba se vrši automatski
- ☐ (Stranka):
- ☐ Prijedlog
- ☐ Rješenje o naslijeđivanju s klauzulom pravomoćnosti
- ☐ Matični broj nasljednika
- ☐ Pristojba od 50,00 kn

✦ PRIJENOS U ZEMLJIŠNU KNJIGU

- ☐ Prijedlog
- ☐ Pristojba od 50,00 kn

✦ PRIVREMENA MJERA

- ☐ (Službeno): vrši se automatskim putem
- ☐ (Stranka):
- ☐ Prijedlog
- ☐ Dokaz od strane suda (Rješenje)
- ☐ Pristojba od 100,00 kn

✦ PRVOUPIS**✦ A) OTKUP STANA**

- ☐ Prijedlog
- ☐ Ugovor o kupoprodaji*
- ☐ Potvrda o amortizaciji ili ugovor o korištenju stana
- ☐ Pristojba od 25,00 kn

✦ B) JETAŽNO VLASNIŠTVO

- ☐ Prijedlog
- ☐ Ugovor o kupoprodaji*
- ☐ Dokaz o državljanstvu stjecatelja (domovnica, osobna iskaznica, putovnica)
- ☐ Pristojba od 250,00 kn

✦ PREOSTALOG DIJELA

- ☐ Prijedlog
- ☐ Ugovor o kupoprodaji*
- ☐ Pristojba od 25,00 kn

✦ ZAMJENA

- ☐ Prijedlog
- ☐ Ugovor o zamjeni*
- ☐ Pristojba od 250,00 kn

BRISANJE:

✦ DOŽIVOTNOG UŽIVANJA

- ☐ Prijedlog
- ☐ Smrtni list
- ☐ Izjava o dobrovoljnom odricanju s izvršenom ovjerom potpisa
- ☐ Pristojba od 50,00 kn

✦ MALODOBNOSTI

- ☐ Prijedlog
- ☐ Rodni list (JMBG)
- ☐ Pristojba od 50,00 kn

✦ ZABILJEŽBE SPORA

- ☐ (Službeno): vrši se automatskim putem
- ☐ (Stranka):
- ☐ Prijedlog
- ☐ Rješenje/Odluka suda
- ☐ Pristojba od 50,00 kn

**Onaj čije se pravo ograničava, opterećuje, ukida ili prenosi na drugu osobu mora izvršiti ovjeru potpisa.*

✦ HIPOTEKA

- ☐ Prijedlog
- ☐ Izjava o brisanju ili brisovno očitovanje s izvršenom ovjerom potpisa vjerovnika (ako pravnu osobu predstavlja fizička osoba onda se zahtjeva i potvrda iz registra Trgovačkog suda o ovlaštenju fizičke osobe)
- ☐ Pristojba od 50,00 kn

✦ PRIVREMENE MJERE

- ☐ **DRAŽBE**
- ☐ **DRAŽBENOG ROČIŠTA**
- ☐ Vrši se službenim putem

ISPRAVAK:

✦ ADRESE STANOVANJA

- ☐ Prijedlog
- ☐ Uvjerjenje o promjeni adrese stanovanja (MUP)
- ☐ Pristojba od 50,00 kn

✦ BROJA KATASTRARKE ČESTICE, KUCNOG BROJA I NAZIVA ULICE

- ☐ Prijedlog
- ☐ Uvjerjenje od katastra (Prijavni list)
- ☐ Pristojba od 50,00 kn

ZABILJEŽBA:

✦ SPORA

- ☐ Prijedlog
- ☐ Dokaz da se vodi postupak (kod suda ili drugog nadležnog tijela - Napis tužbe)
- ☐ Pristojba od 100,00 kn

✦ STARATELJSTVA

- ☐ Prijedlog
- ☐ Rješenje Centra za socijalnu skrb s klauzulom pravomoćnosti
- ☐ Pristojba od 50,00 kn

✦ UGOVORA O DOŽIVOTNOM UZDRŽAVANJU

- ☐ Prijedlog
- ☐ Ugovor*
- ☐ Pristojba od 100,00 kn

Attachment 15:
Draft Collateral Registry Law

ATTACHMENT 15

DRAFT COLLATERAL REGISTRY LAW

NOTE: After reviewing various options, the committee selected the different options and this is the draft of a proposal after selecting the options

REGISTRY OF COURT AND NOTARY PUBLIC COLLATERAL RIGHTS AND OTHER SECURING OF CREDITOR'S CLAIM

HEAD ____

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Article 1. Content of this part of the law

This part of the law determines the structure and content of the registry of court and notary collateral rights and other securing creditor's claims on movable property (hereinafter "security interests") and effects of the entries into the registry as well as the procedure by which the entries are made.

Article 2. Creating registry

A registry of security interests as herein before defined will be created by the Ministry of Justice and conducted by the Registrar of the Registry who shall be appointed by and report to the Ministry of Justice.

Article 3. Constitute parts of the registry

The registry shall be a single electronic database.

Article 4. Conducting the registry

The Registrar of the registry will determine the form and content of the registry as well as the inner structure and work of the registry service by rules of procedure in accordance with this law. More specifically,

4.1 Registrar's Powers:

The Registrar may:

- 4.1.1 approve the format of documents, forms or data submitted under this Law and approve the manner of their completion
- 4.1.2 establish rules, procedures and guidelines respecting the delivery of the documents, information, forms or data [including electronic transmission] and determine the method of transmitting the documents, information, forms and data
- 4.1.3 establish rules, procedures and guidelines governing searches of the registry
- 4.1.4 establish rules, procedures and guidelines governing the certification of information and data from the registry
- 4.1.5 establish rules, procedures and guidelines governing the resolution of disputes arising from administrative actions of the registry as described in Article 12

4.2 Ministry's Powers:

The Ministry of Justice may make regulations:

- 4.2.1 prescribing the records to be maintained in the registry
- 4.2.2 respecting the custody, disposition and destruction of the documents, information and data and permit the Registrar to dispose of such documents, information and data
- 4.2.3 respecting the approval of, and registration and prescribing the manner in which such registration is to be effected
- 4.2.4 respecting the time, manner and circumstances in which a document, information or data registered may be altered or corrected
- 4.2.5 governing the receipt of a document, information or data and the time and manner of submitting and registering the document, information or data
- 4.2.6 respecting the manner in which records and copies are to be provided and copies are to be certified under Article 5 of this Law

- 4.2.7 prescribing the written form or the electronic format for a certificate provided under Article 5, including a form or format that does not require a signature
- 4.2.8 respecting the establishment and maintenance of records
- 4.2.9 governing the protection against unauthorized access to or use of the information or data in the registry
- 4.2.10 governing the security of the registry system, including having a secondary system, whether electronic or in a paper based, to ensure the integrity of the system
- 4.2.11 exempting any person, document or thing from any of the provisions of the Law or regulations under it
- 4.2.12 prescribe what fees shall be imposed for the services of the registry
- 4.2.13 respecting anything that is necessary or advisable to carry out effectively the intent or purpose of this Law
- 4.2.14 respecting the qualifications, standards of practice and procedures for granting rights to act as an authorized operator
- 4.2.15 respecting the designation of authorized locations of the registry

Article 5. Publicity of registry

The registry is a public record. Everyone is entitled to request access to the information in the registry as permitted and during the hours established by the registry. The registry must also permit access to the information in the registry by means of telephone connection and Internet access and other methods as the regulations may provide.

Everyone can request information from the registry. Upon request, the registry shall issue certificates authenticating that the information is from the registry database. Non-certified reports of information shall be made available to the public through electronic form or other means as is authorized under the rules of procedures.

Article 6. Effect of registration

6.1 Public notice

The registry is a system of evidence of priority of the security interest. Upon entry of the information in the registration statement or supplemental statement, third persons shall be presumed to have been aware of the existence of the information contained in the registry about the Registered Security Interest (as hereinafter defined).

6.2 Entries deemed correct

Entries in the registry with respect to third parties shall be deemed correct and third parties will be under no obligation to conduct an independent investigation into the correctness of the entries in the registry. In case of a contradiction between the information contained in the registration statement or supplemental statement and the underlying documents, the relationship between third persons and those between the parties and third parties, the data in the registration statement or supplemental statement shall prevail.

6.3 Creation of Registered Security Interest

The entry of a security interest in the registry shall create a Registered Security Interest.

6.4 Priority of Registered Security Interest

A Registered Security Interest shall have a priority over an unregistered security interest irrespectively of the grounds and date of its creation except as follows:

- 6.4.1 a security interest in goods in the possession of the secured party and which arose from a secured obligation not more than _____ Kunas (Euros) at the time of entry into the security agreement
- 6.4.2 a security interest in negotiable instruments or negotiable documents in possession of the secured party or agent of the secured party under Article ____ of Law _____
- 6.4.3 a security interest in money
- 6.4.4 a security interest in a deposit account as original collateral
- 6.4.5 a security interest in securities traded in a stock exchange
- 6.4.6 a security interest on vessels and aircraft registered in the registry of ownership for vessels and aircraft under Article ____ in Law _____
- 6.4.7 assignment of inheritance rights under Article ____ of Law _____
- 6.4.8 assignment of patent and trademark rights under Article ____ of Law _____
- 6.4.9 any unpaid amount over the particular property granted by purchaser over the thing transferred (“vendor’s lien”) under Article ____ of Law _____
- 6.4.10 a security interest arising by operation of law for money due for services in relation to a thing or right (“mechanic’s lien”) under Article ____ of Law _____
- 6.4.11 if the security interest was published in accordance with Article ____ of the Law of Execution prior to the date of the enactment of this law and provided that such security interest is entered into the registry within the following time periods:
 - 6.4.11.1 if such security interest was published prior to 1991, within six months of the enactment of this law
 - 6.4.11.2 such security interest was published after December 31, 1991 but prior to January 1, 1996, within eighteen months of the enactment of this law
 - 6.4.11.3 if such security interest was published after December 31, 1995, but prior to January 1, 2001, within one year of the enactment of the law
 - 6.4.11.4 if such security interest was published after January 1, 2001 to the date of the enactment of this law, within six months of the enactment of this law.

As between Registered Security Interest, the sequence of entry into the registry shall determine the order of priority of such interest with the first entered interest having first priority unless all of the holders of the registered security interest in a property agree otherwise. In such event that all of the holders of registered security interests in a property agree on a different order of priority and wish to register such order, the parties shall register a supplemental statement with the registry.

6.5 Term of Registered Security Interest

The Registered Security Interest shall be valid for a period up to five years and the time period shall start to run from the moment of entry into the registry. This period may be extended if an extension is requested six months prior to the expiration of the Registered Security Interest. The validity period of the Registered Security Interest does not limit the terms of the agreement between the parties.

Article 7. Rights entered into the Registry

The rights that may be entered into the registry are:

- 7.1 collateral right on a movable, a right, a stock, share and business share in a company, which is, in accordance with the Law _____, acquired through execution or securing
- 7.2 transfers of right of ownership on things, other than immovables, for securing
- 7.3 transfers of stocks, shares and business shares, for securing, if they are not registered in any other public book
- 7.4 modifications of information entered into the registry, including changes to identification information, transfer or assignment and termination of rights

Article 8. Place of entry of request of security interest in registry

Entry in the registry shall be made at the authorized locations of the registry.

Article 9. Information to be submitted to register for the initial filing or supplemental statements

9.1 Required Information for Registration Statement

The following information is required for the original registration of the security interest:

- 9.1.1 the name and identification number of the parties to the agreement or court action giving rise to security interest
- 9.1.2 the official addresses of the parties to the transaction
- 9.1.3 description of the property subject to the security interest
 - 9.1.3.1 if a property where registration of title is required by law to transfer title, then the serial number or other identification information associated with such filing
 - 9.1.3.2 if attached to real property, a description of the real property
 - 9.1.3.3 if in pledging the entire property or a pool of things the property includes a movable item that requires registration to transfer title, such movable item must be listed separately on the application. If one of such movable items is not listed, it shall be deemed not to be part of the register security interest.
 - 9.1.3.4 if an inventory of specific property was prepared by the parties to the transaction, the location and name of person who has copies of such inventory
- 9.1.4 amount of the secured claim expressed in national or foreign currency or monetary unit of account or any combination of these
- 9.1.5 statement if the distrainee, opposer of security, debtor or pledgor shall acquire the object subsequently
- 9.1.6 date when claim shall be due
- 9.1.7 the pledgee's right to sell the property subject to the security interest without an auction
- 9.1.8 any prohibition to pledge repeatedly the property subject to the pledge
- 9.1.9 a list of the documents submitted to the registry clerk or authorized operator

9.2 Required Information for Supplemental Statement

The following information is required to modify, assign, terminate and extend the registration of the security interest (hereinafter “supplemental statement”):

9.2.1 registration information from the original registration of the security interest as follows:

9.2.1.1 identification number assigned to registration

9.2.1.2 date of original registration

9.2.1.3 action requested (e.g. modification or termination or extension)

9.3 Required Signatures on Statements

9.3.1 Only the beneficiary of pledge agreement, applicant for execution or security, creditor, pledgee, or transferee of property under fiduciary transfer must sign or verify the registration statement if authorized by the distainee, opposer of security, debtor or pledgor. Authorization shall be deemed given if the security interest is created by the court or notary under the Law of Execution or court judgment. A secured party that files a registration form without the proper authorization shall be liable to the distainee, opposer of security, debtor or pledgor for actual or statutory damages as provided in Article 12 of this law.

9.3.2 All the parties to any modification, assignment or transfer of the security interest must sign or verify the supplemental statement.

9.3.3 Only the transferee of property under fiduciary transfer that the title held in movable property for security purpose has been returned to the transferor must sign or verify the supplemental statement.

9.3.4 Only the secured party must sign or verify the supplemental statement for termination or extension of a previously filed Registered Security Interest.

9.4 Request for Supplemental Statement by distrainee, opposer of security, debtor, transferee or pledgor

The distrainee, opposer of security, debtor, transferee or pledgor upon the satisfaction of the claim may request the filing of the supplemental statement for termination or return of the title of the property that had been transferred for security purposes. Such request shall be sent by the requestor to the secured party and filed with the registry. Such request shall become effective 60 days after delivery to the secured party unless the secured party files an objection to the request with the registry. Any dispute between the parties regarding such notice shall be address under Article 12.2.

Article 10 Procedure of registration

10.1 Entry of Information into the Registry

Any person who wishes to file a registered security interest, or an amendment to information about the registered security interest required under the Article 9 shall present at any authorized location of the registry or send to the registry, by any authorized means as prescribed by the regulations, a) a registration statement or supplemental statement that shall be completed in the format also established by the regulations and b) proof of payment of any required fees.

10.2 Duties of the registry clerk or authorized operator

The registry clerk or authorized operator shall accept all registration statements and supplement statements submitted to the registry and process the statements in sequential order by time of receipt. Within 24 hours from receipt of the document at the authorized locations, the registry clerk or authorized operator shall 1) review the document for completeness of information as set forth in Article 9 and confirm receipt of proof that the appropriate fees have been paid and 2) cause to be entered the information in the registry database by the most immediate method available or as otherwise proscribed by regulations.

10.3 Notification of Rejection

The registry clerk or authorized operator may reject the registration statement or supplemental statement for only the following reasons:

10.3.1 All the information that is required by the form or format of the registration statement or supplemental statement is not complete

10.3.2 Proof of payment of the required fees has not been provided at time of submittal of the document

The registry clerk or authorized operator shall deliver a written notification to the submitter of the rejection and the basis for the rejection by whatever authorized means that insures the earliest notification.

Article 11 Effective date of filing of a registration form and supplemental statement

The time and date of entry of information from the registration statement or supplemental statement into the database of the registry shall be when the registry confirms the receipt and entry of the data into the database.

Article 12 Corrections to Entry into Registry

12.1 Correction by Registrar or parties upon written notification and comment period

If a typographical error or a discrepancy between the entries into the registry and the registry statement or supplemental statement is detected, the error shall be corrected at the initiative of the Registrar or the parties to the registration. The Registrar shall provide written notice to all parties to the registration of any such correction and the period of time in which comments can be provided by the parties to the change. After such designated period of time, the Registrar shall make the decision to correct the entry. Failure to respond or an opposing comment shall not be an obstacle for the correction of the error. The Registrar may correct any obvious errors without requesting comment.

12.2 Other disputes between parties

Any disputes between the parties relating to the rights of the parties arising from the underlying documents creating the obligation or security interest other than those described in Paragraph 12.1 shall be decided by the court having the jurisdiction over such persons, matters or property as defined by the law.

12.3 No Liability of Registry for Incorrect Information

The Registrar, the registry staff and authorized operators shall incur no liability for any damage that may arise from the entry or distribution of any information that may contain errors of fact or legal conclusions or implications.

12.4 Criminal and other penalties

Should a party knowingly and intentionally cause to be entered false information in the registry or unauthorized registration statement under Article 9, such person shall be liable for damages arising from such act to any injured party directly connected with the registered false information, including the registry, and a fine of ___ Kunas payable to the registry to cover the cost and expense associated with the correction of the database and other administrative acts.

Article 13 Issuance of regulations

The Ministry of Justice shall prescribe the regulations of this law within three months after this law enters in force.

Article 14 Relationship to other laws

When this law comes into effect, the following conditions shall be abrogated: [list laws that are affected by law].

Article 15 Effective date of law

This law comes into effect on the ___ day of the following date of publication in the official gazette of Croatia.

Article 16 Determining Fees and Other Costs

The fees and other costs of the registry shall be determined by the [governmental agency] provided, however, the fees shall not exceed the actual costs of operating the various functions of the registry.

ARTICLE 17 METHODS OF PAYMENT OF FEES

Payment for filing of the registration form or supplemental statement shall be made at the time of filing through methods described by the regulations.

ARTICLE 18 Standards for information system

Regulations must require the use of internationally established technical standards for the registry's database software and the laws of Croatia.

Article 19 Authorized Locations and Persons

19.1 Authorized Locations

The Ministry of Justice shall designate from time to time authorized locations for the submission of documents, issuance of certificates and accessing information from the registry.

19.2 Authorized person to accept applications and issue certificates from electronic database ("authorized operators")

The Ministry of Justice may grant to any natural person or legal person the rights to act under Articles 10 to verify the information submitted and to submit the information required under Article 9 to the registry for entry into the database and to issue a certificate of entry which has been generated from the electronic database with the same force and effect as if issued directly by the Registrar. The Ministry of Justice shall establish by regulations minimum qualifications and standards for such persons.

Attachment 16:
Croatia Commercial Courts
ADR Assessment and
Proposed Action Plan



UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT



CROATIA COMMERCIAL COURTS ADR ASSESSMENT & PROPOSED ACTION PLAN SEPTEMBER 2001

**USAID SEGIR General Business, Trade & Investment
Contract No. PCE-1-00-98-00013
Task Order No. PCE-I--03-98-00013-00**

Prepared by:

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Booz•Allen & Hamilton Inc.

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Introduction

The use of Alternative Dispute Resolution (ADR) techniques, specifically that of mediation/conciliation¹ and arbitration, are endorsed by Presidents of the Croatian Judges Association and the Croatian Bar Association. Furthermore, other supporting institutions, equally interested in the efficient and effective operation of the Commercial Courts in Croatia, have encouraged the use of ADR, including the US Agency for International Development, American Bar Association Central and East European Law Initiative (ABA-CEELI), and the Croatian Chamber of Commerce. Given the current enhancements underway to improve the administration and operation of the Courts, it is appropriate that efforts also be made to heighten the awareness of judges, lawyers, and litigants regarding settlement procedures in addition to formal adjudication in Croatian Commercial Courts.

To that end, this report outlines the strategies by which the Croatian Commercial Law Reform Project can serve as a catalyst for the exchange of information and ideas regarding *increased* use of arbitration (external to the courts) and the *beginning* use of mediation (external to the courts, as well as, annexed to the courts). Significant impediments to institutionalizing ADR in the Croatian Commercial Courts also are highlighted—not for the purpose of discouraging the idea that ADR can be an effective enhancement of the commercial legal system—but as further justification as to why education and advocacy efforts, and experimentation with mediation on a smaller scale, are the most effective strategies to advance ADR in the long term.

Given our assessment, Commercial Court judges, lawyers, and litigants must engage in substantial dialogue about ADR as a starting point, before efforts to institutional ADR can be contemplated. They must develop a common language and understanding of these processes, and collectively consider the legal and structural changes necessary to support and encourage the use of these processes in their legal system.

Furthermore, corporate leaders must actively encourage their legal advocates to pursue early resolution of the disputes in which they are involved. Business owners and executives in private industry must make clear their desire to advance the use of mediation and arbitration in Croatia. They must spearhead strategies that educate corporate decision-makers about the benefits of various ADR processes, and they must

¹ For purposes of this report, the terms *mediation* and *conciliation* are identical and refer to processes during which a neutral third person assists disputing parties to reach a mutually agreeable settlement of their claims. The term *mediation* will be used throughout this report.

encourage these decision-makers to pledge to use ADR whenever they are involved in a commercial dispute.

Finally, mediating a small number of Commercial Court cases on a pilot basis will prove that mediation can be an effective tool in resolving disputes in Croatia. This hands-on experience will help to lay the groundwork for later, more expansive efforts.

Arbitration and mediation will not be utilized to any significant degree until laws, common practices and the legal environment currently operating in the Croatian Commercial Courts is changed. The proposed role of this project is to serve as a catalyst for that change through education first, and experimentation, second.

Current Status

Arbitration

To date, binding arbitration is available through the Permanent Arbitration Court of the Croatian Chamber of Commerce² (PAC-CCC). Parties may opt to have their cases arbitrated through this forum. If they chose to do so, domestic parties and lawyers, as well as arbitrators and judges are bound by the procedures outlined in Chapter 31 of the Croatian Code of Civil Procedure (also known as the Arbitration Law³). The number of cases arbitrated by the PAC-CCC per year—estimates range from 23 to as high as 60 cases in recent years⁴—is extremely low in comparison to the number of cases filed each year in Commercial Courts in Croatia.

While most interviewed agreed that the PAC-CCC enjoys a good reputation, concerns about arbitration were expressed, including:

1. Arbitration is primarily utilized by an elite group of commercial clients, limited to those far-sighted and collaborative enough to mutually engage in a pre-dispute arbitration clause;
2. Arbitration can be cost-prohibitive for some, given the fees charged by arbitrators and other administrative expenses;
3. Knowledge about arbitration by lawyers and commercial entities is limited;

² Arbitration may be provided by other organizations or by individuals not affiliated with a specific organization. However, it appears that the PAC-CCC is the primary provider of arbitration in Croatia.

³ It is anticipated that amendments to the Arbitration Law will be enacted in the near future.

⁴ The 1998 Croatian Arbitration Yearbook reports a total of 23 domestic and international cases in 1998. The PAC-CCC Secretary General reported approximately 60 cases in 2000 during an interview with BAH consultants on June 25, 2001.

4. Due to a financial inability to pay their debts, litigants often embrace delay, rather than expeditious disposition of disputes;
5. The number of cases arbitrated external to the courts will never be significant enough to impact backlog and delay in the Commercial Courts; and,
6. Delays and conflicts occur due to the unfamiliarity of some judges regarding judicial/arbitration jurisdiction and issues related to the execution of awards.

Mediation

Mediation does not exist in any conceivable form in the Croatian civil justice system. PAC-CCC does offer conciliation; however, given all the reasons that impede the use of ADR in general, requests for what PAC-CCC refers to as conciliation are exceedingly few. Because of the reasons outlined below, this is not surprising. In order for mediation to function in a society—particularly mediation annexed or in any way affiliated with the courts—the legal system must encourage and support out-of-court settlement of disputes. In Croatia, judges and lawyers consistently expressed concerns that mediation would be effective only if the following factors were an integral part of their legal system; factors that many argue, to varying degrees, are not a part of the current foundation of the Croatian system of justice.

- The authority of the Court is revered.
- Lawyers routinely engage in meaningful negotiation and actively seek early resolution of disputes on behalf of their clients.
- Citizens—in this instance commercial businesspeople—are directly involved with the litigation and with resolution of their disputes.
- Laws and legal procedures authorize mediation and otherwise support settlement of disputes.

Impediments to Mediation

The authority of the Court is revered.

Judges and lawyers alike indicate a lack of respect for the sanctity of the judicial process. Continued court appearances are common due to the non-appearance of lawyers and/or their lack of preparation at hearings. Noncompliance with court judgments is common, and enforcement proceedings are lengthy and burdensome. Sanctions imposed by the court, financial or more severe, are extremely rare.

Parties and lawyers who do not appear before a judge, likely will not appear before a mediator. Parties and lawyers who do not comply with court judgments, likely will not

abide by their mediated agreements. A justice system hesitant to sanction for non-compliance with its own directives, will be even more hesitant to sanction for non-compliance with out-of-court procedures.

Lawyers routinely engage in meaningful negotiation and actively seek early resolution of disputes on behalf of their clients.

For the most part, Croatian lawyers do not negotiate with opposing counsel. A number of reasons may account for this phenomenon. First, legal education in Croatia is theoretical, less practical or skills-based. One law school professor responded when questioned as to why negotiation was not a part of the law school curriculum, *“Why teach it, when we don’t do it?”* Lawyers tend to have a more narrow view of their role. They see themselves as advocates, with the job of defending their client’s interests in court. Once a court case has been filed, they view the parties strictly as adversaries, and any opportunity for the parties to resolve the case between themselves as having passed.

Likewise, professional standards related to conflict of interests and serving the best interests of clients are not yet as developed or defined as they undoubtedly will be in the future. In many countries, lawyers are obligated to pursue potential settlements by the standards of professional practice or by court rules and procedures. They are expected to inform their clients throughout the life of a case about the benefits of settlement as weighed against the risks and costs of pursuing litigation. Somewhat related, many Croatians mentioned the tariff system for legal fees as another impediment to the use of mediation in general, and the early settlement of disputes in particular. The system of charging fees by event or activity may discourage streamlined and expedited resolution of pending court cases.

The judges and lawyers interviewed were supportive of the concept of mediation, but concerned how it would function given the realities of the legal and economic systems in Croatia. They indicated that typically defendants’ interests are served by delaying the final resolution of a dispute, or in other words, delaying payment of a settlement or court judgment. This reluctance or inability of defendant’s to pay was mentioned time and time again as a key factor impeding the use of any ADR procedure. The economic realities seemed to loom larger than the possible savings reaped by early settlement, or the ability to structure less burdensome payment plans or arrive at creative non-monetary settlements.

Citizens—in this instance commercial businesspeople—are directly involved with the litigation and resolution of their disputes.

Commercial litigants rarely appear in court, and as mentioned above, rarely engage in direct negotiations with their opposing parties. As a result, litigants are unaware of the legal maneuverings of lawyers, of the parameters of judges' discretion, and of the pitfalls of pursuing their disputes through the Courts. This lack of direct litigant involvement limits their ability to give lawyers direction and to effectively oversee their work (for example, appearance and non-appearance at court events). A great impetus for change must come from commercial litigants who clearly set expectations for their lawyers and who are educated about the benefits of early settlement of their disputes.

Laws and legal procedures support early settlement of disputes.

While the Croatian Code of Civil Procedure, Chapter 22, Article 321, does indicate that the *“Court shall draw parties’ attention to the possibility of settlement and assist them in reaching one,”* without exception, judges (and most lawyers) indicated this provision did not give the Court the inherent authority to require parties to attempt mediation. This lack of statutory authority to mandate participation in mediation also means an inability to sanction parties and attorneys for non-compliance related to mediation. In essence, there is no motivating factor to compel litigants and their attorneys to, at the very least, come to the mediation table prepared to discuss possible settlement of a dispute. These factors, coupled with a non-negotiation legal culture and the other impediments listed herein, means parties are not likely to participate in mediation on their own accord if it is simply offered by the Court or some other entity.

In addition, several other laws and legal procedures currently operating in Croatia were mentioned by judges and lawyers as impeding settlement of disputes. Only a few are mentioned here. For example, litigants may submit new evidence up to and even after a final judgment, therefore the ability to litigate a case to “conclusion” may never be realized. “Loop holes” in the Bankruptcy law allow frequent shifts in corporate identities and allows for a corporate shield from proceedings. Furthermore, a large portion of the Commercial Court cases involve persons from other Republics who traditionally do not respond to action taken by the Croatian Courts—in Rijeka, a figure as high as 30% of the Commercial Court caseload was quoted⁵.

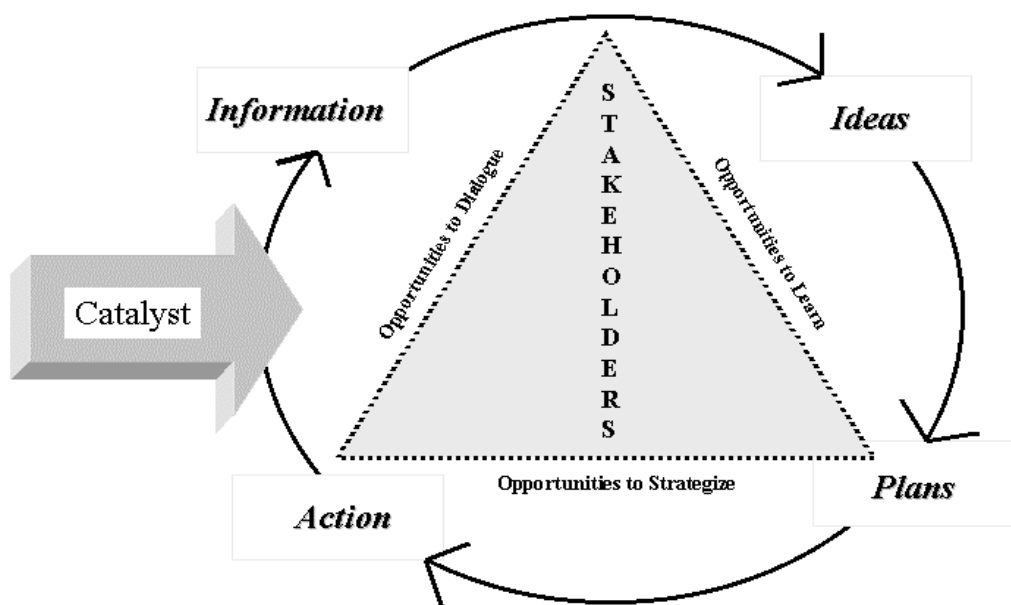
⁵ Information provided during an interview with the President of the Commercial Court in Rijeka on June 27, 2001.

Proposed Approach

These impediments are not only common to Croatia. A number of countries around the world, including the United States, have experienced similar situations to varying degrees. However, unless some shifts occur, the legal culture does have implications for the very limited use of mediation and arbitration in Croatia now and in the future. Accordingly, the most appropriate role of the Commercial Law Reform Project is one of a *catalyst*, meaning the project should be instrumental in putting things in motion and moving things forward. By creating opportunities for dialogue, learning, and action planning, mediation and arbitration will move forward in Croatia—in a way deemed appropriate by Croatians.

By providing forums for sharing of information and ideas, and for developing plans and turning those plans into action; the Project will spearhead a collaborative process that relies on stakeholder participation. Both through stakeholder exchanges and with the participation of other ADR experts, we will help judges, lawyers, and business leaders to make informed decisions about the future of ADR in Croatia. We will provide sufficient technical and administrative assistance so that they can execute the tasks they deem necessary to attain their ADR goals.

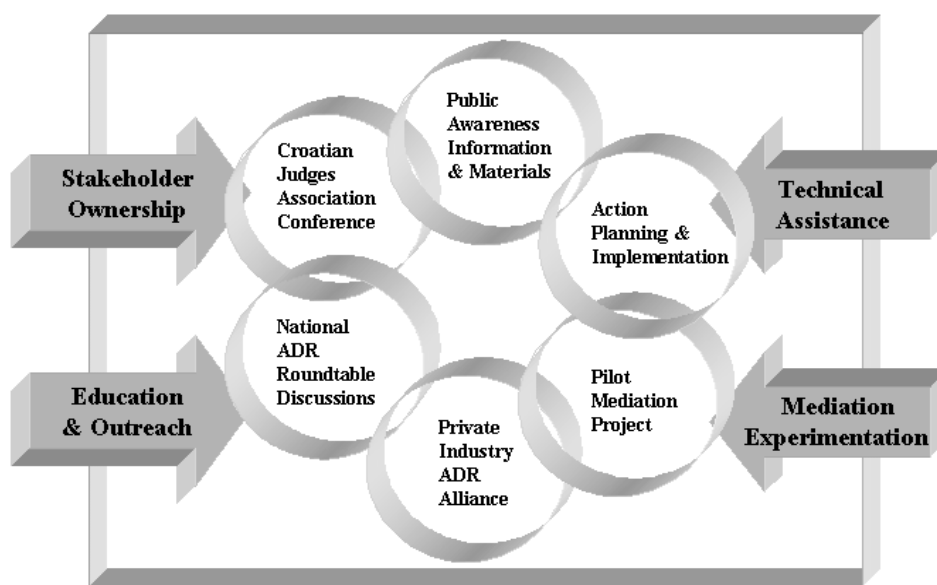
Role of Catalyst



Stakeholders includes judges, lawyers, business leaders, USAID, and ADR and project consultants.

Project Activities

The graphic below and the narrative that follows, outlines the proposed activities designed to advance discussions regarding the use of mediation and arbitration in the Croatian legal system. The activities are intended to allow key Commercial Court stakeholders—judges, lawyers, and business leaders—to learn about ADR, to assess the current system, to contemplate appropriate changes, and to develop action plans. Ultimately, awareness of mediation and arbitration will be increased through education and outreach activities. Ownership by key stakeholders will result from their involvement in ADR initiatives. Technical assistance will be provided to ensure that Croatia benefits from the most up-to-date ADR information and resources. Finally, experimentation with court-based mediation will help stakeholders to determine the feasibility of broader implementation throughout Croatia.



Croatian Judges' Association Conference

The Croatian Judges' Association is planning a conference for November 2001. According to the Judges' Association President, the conference will focus on judicial and court reforms, with special guests from USAID, the World Bank, ABA-CEELI, the Minister of Justice, and the Croatian Bar Association. Discussions will include, among other topics, court jurisdiction and structure, legal reforms, and judicial education. The Association President indicated, and we agree, this conference would be an excellent opportunity to begin discussions related to court-based ADR initiatives.

We propose making every effort to showcase ADR, in particular mediation, at this conference⁶. The event would serve as the most appropriate forum to begin discussions among judges about mediation and arbitration, about necessary reforms, and about potential next steps. It is recommended that a US judge, knowledgeable in ADR and legal reform initiatives in a variety of countries, present substantive information about ADR and the impact of ADR on the administration of justice. If time permits, a mediation demonstration is an excellent way to ensure that judges have a clear understanding of the process—what it is and what it isn't. Thereafter, a facilitated discussion about how such a process might function in the Croatian legal system will begin to create commitment and ownership toward taking the necessary next steps of continued education and dialogue, followed by experimentation on a pilot basis.

ADR Roundtables

Building on the momentum created at the Judges' Association Conference, we propose continuing the dialogue during a series of National ADR Roundtables, sponsored jointly with ABA-CEELI. The first Roundtable will be held in early 2002, possibly March or April, during which key judges, Ministry of Justice officials, members of the Croatian Bar Association, Law School Faculty, representative business leaders, and others will work to:

- Gain a better understanding of various ADR processes;
- Clarify the issues regarding use of these processes by Croatian Commercial Court judges, lawyers and litigants; and,

⁶ During an interview on June 26, 2001, the Croatian Judges' Association President extended an invitation for an ADR expert to speak at this conference. The invitation was informal and the specific details must be confirmed as planning for the conference progresses.

- Begin formulating actions necessary to advance the use of mediation and arbitration in Croatia.

The second Roundtable will be held approximately seven months later, possibly October 2002, during which participants work to:

- Assess the status of the action plans formulated during the first Roundtable; and,
- Make recommendations regarding the design and implementation of a pilot mediation project in Croatia.

The third Roundtable will be held close to the end of the project period, possibly July 2003, during which participants work to:

- Assess the results of the pilot experimental mediation project; and
- Consider future ADR activities, including: (1) development of ADR laws that authorize courts to obligate participation in mediation and ensure confidentiality of mediation procedures; (2) continued and expanded training and education efforts for judges and lawyers; and (3) continued use of mediation on a pilot basis and/or possible implementation of other mediation projects in Commercial Courts.

Each ADR Roundtable will be highly structured, with discussions facilitated by experts and written reports circulated after each event. The objectives of the Roundtables are to:

1. Educate stakeholders about ADR;
2. Promote dialogue and action planning;
3. Engender commitment to and ownership of ADR in Croatia; and,
4. Solicit ideas and recommendations from those critical to the success of any ADR initiative.

Private Industry ADR Alliance

Currently, judges will not prohibit the use of mediation or arbitration processes if the parties agree to voluntarily participate in these processes. They feel, however, that lawyers do not and will not engage in settlement discussions even when encouraged to do so by the Court. On the other hand, lawyers justify their actions, or more appropriately, their inaction, because they believe that their clients do not want to engage in out-of-court settlement discussions. If perceptions of judges and lawyers are correct, then under the

current circumstances, specifically the Court's lack of authorization to compel participation in an ADR process, it is Commercial Court litigants who have the only real power and authority to break this cycle.

Accordingly, private business leaders can be extremely influential in the advancement of ADR in Croatia. Commercial Court disputes that are appropriate for mediation or arbitration typically involve transactions between commercial entities⁷—meaning that more often than not, both plaintiffs and defendants will be businesspeople. If the business community actively educated its members about the benefits of using ADR, and its members pledged to use ADR if ever involved in a commercial dispute, their lawyers would be bound to pursue and participate in these processes.

Therefore, we propose that representatives from the business associations in Croatia form an ADR Alliance. This ADR Alliance would include leaders from the following organizations:

- Association of Employers
- American Chamber of Commerce (AmCham)
- Banking Association
- Croatian Chamber of Economy
- Competitiveness Council

The Project would serve as the convener/facilitator of meetings of the ADR Alliance. ADR experts would work closely with the Alliance throughout the duration of the project period to execute the following objectives:

1. Develop and implement strategies to educate the members of the business community about mediation and arbitration;
2. Participate in the ADR initiatives in the Courts. Examples might include participating in the ADR Roundtables, and seeking out businesspeople who have cases pending in the Courts and encouraging them to voluntarily submit their cases to the pilot mediation project; and,
3. Promote the signing by lawyers and businesspeople of an *ADR Pledge*, as well as Pre-Dispute Mediation and Arbitration Clauses in many, in not all, commercial contracts.

If businesspeople agreed—before disputes occur—that they would attempt to settle potential problems through an ADR process, rather than through the Courts, a significant

⁷ Excluding cases involving the court registry and enforcement actions.

impact on the number of cases filed in the Commercial Courts could be realized. In the United States, approximately 4,000 companies have subscribed to a Corporate Policy Statement on Alternatives to Litigation⁸ (known as the ADR Pledge) promulgated by the Center for Public Resources Institute for Dispute Resolution. Corporate Chief Operating Executives sign the pledge, which obligates⁸ them to explore the use of ADR in disputes with other signers of the Pledge. Likewise, 1,500 Managing Partners of Law Firms in the US have also signed a similar pledge. Examples of this ADR Pledge follow:

Corporate ADR Pledge

We recognize that for many disputes there is a less expensive, more effective method of resolution than the traditional lawsuit. Alternative dispute resolution (ADR) procedures involve collaborative techniques that can often spare businesses the high costs of litigation.

In recognition of the foregoing, we subscribe to the following statements of principle on behalf of company and its domestic subsidiaries:

In the event of a business dispute between our company and another company which has made or will then make a similar statement, we are prepared to explore with that other party resolution of the dispute through negotiation or ADR techniques before pursuing full-scale litigation. If either party believes that that dispute is not suitable for ADR techniques, or if such techniques do not produce results satisfactory to the disputants, either party may proceed with litigation.

Law Firm ADR Pledge

We recognize that for many disputes there may be methods more effective for resolution than traditional litigation. Alternative dispute resolution (ADR) procedures -- used in conjunction with litigation or independently -- can significantly reduce the costs and burdens of litigation and result in solutions not available in court. In recognition of the foregoing, we subscribe to the following statements of policy on behalf of our firm.

First, appropriate lawyers in our firm will be knowledgeable about ADR. Second, where appropriate, the responsible attorney will discuss with the client the availability of ADR procedures so the client can make an informed choice concerning resolution of the dispute.

Use of similar pledges in Croatia would help to shift a negative psychological attitude toward negotiation and dispute settlement to a more positive and pro-active approach. It

⁸However, corporations that engage in this pledge are not restricted from filing a formal action in Court at any time.

also would send a strong message to the Courts and legal community that changes in the current system are desired by those the system is intended to serve.

Possibly an even more powerful tool for the increased use of ADR is the widespread inclusion in commercial contracts of Arbitration or Mediation Pre-Dispute Clauses. Unlike the ADR Pledge, when placed in a signed contract between two entities, these clauses are legally binding and enforceable. The clause offered below by way of an example binds the parties to engage in arbitration, rather than a traditional court process, to resolve disputes, and it designates the CCC-PAC as the administrator of the arbitration process. A clause could just as easily bind the parties to engage in a mediation process, in conjunction with a traditional court process, and designate the process be administered by a court mediation program or an independent mediator or ADR service provider. Pre-dispute ADR clauses can be drafted any number of different ways, and eliminates the need to convince one or more of the parties to come to the negotiation table after a dispute has arisen and the parties feel less than amicable about each other.

Recommended Arbitration Clause promoted by the Croatian Arbitration Court⁹.

"All disputes arising out of this contract, including such relating to its breach, termination or invalidity, and any legal consequence thereof, shall be finally settled by arbitration in accordance with the Rules of International Arbitration of the Permanent Arbitration Court at the Croatian Chamber of Commerce as in force."

Appropriate supplementary provisions:

- (a) The number of arbitrators shall be (one or three).
- (b) The substantive law of (country). shall be applicable.
- (c) The language(s) to be used in the arbitral proceedings shall be (languages)
- (d) The place of arbitration shall be (city or state).
- (e) The appointing authority shall be (administering agency or specific person chosen as the arbitrator).

⁹ A similar clause may be used for mediation. Furthermore, organizations other than the Croatian Chamber of Commerce may be utilized as the mediator or arbitrator or administering agency.

In our view, education of the business community and increased use of these various strategies by businesses in Croatia would significantly advance the use of ADR in Croatia.

Pilot Mediation Project

It is our opinion, that of all the ADR processes, mediation is the most appropriate process to be annexed to the Courts, and it is the most effective process to which the Courts should refer cases. Because their decision-making power is maintained, mediation is the process most likely to be accepted by lawyers and litigants over time. Since it is a process of *assisted* negotiation, those who participate in it are more likely to engage in negotiation and settlement discussions on their own in other cases or similar situations. Therefore, use of mediation in Croatia will impact on the anti-negotiation/settlement philosophy currently adhered to in Croatia. And finally, in a country where people are having difficulties paying their debts, mediation offers the greatest flexibility to design structured payment plans or creative non-monetary agreements.

Binding arbitration, external to the Courts, and voluntarily engaged in by the parties instead of filing suite in Court, holds great promise if the education efforts mentioned above result in a significant number of parties opting for arbitration over litigation. Statutorily, nowhere in the world do Courts refer parties to a *binding* arbitration process, because this would in essence deny a citizen access to the Courts for resolution of their disputes. However, if reformed, Croatian law could authorize the Courts to refer parties to a *non-binding* arbitration process. If the parties did not voluntarily agree to accept the arbitrator's award, they could continue to pursue their claims through litigation. Given the problems in Croatia with enforceability of Court judgments, it is likely similar problems would arise with non-binding arbitration awards, and therefore, would do more to add delay, than reduce it.

Other ADR processes, such as mini-trials, summary jury trials, and neutral case evaluation¹⁰ involve subtle nuances on mediation and arbitration themes. The use of these processes tends to be limited in scope and evolve after a jurisdiction is well versed in mediation and arbitration.

Accordingly, we propose that Croatia move forward on an experimental basis, with a pilot mediation program. This pilot program could be implemented without any legal reforms if the parties' agreed to voluntarily submit their cases to mediation. Decisions

¹⁰ See Annex for a description of basic ADR processes.

regarding the specific parameters of the pilot project should come after the Croatian Judges Association Conference, the first and second ADR Roundtables, and several meetings of the ADR Alliance, so that decision-makers are informed by these high-level discussions.

A pilot project could be operated in one jurisdiction¹¹ or a small number of cases could be selected from several jurisdictions. Regardless, the following tasks would need to be completed:

- Development of policies and procedures
- Development of public awareness materials for judges, lawyers, and litigants
- Selection of cases for mediation
- Secured consent of judges, lawyers and litigants to mediate their cases
- Training for lawyers about mediation and how to be effective advocates during a mediation process¹²
- Selection and training of mediators
- Mediation of selected cases
- Distribution of surveys to participating mediators, lawyers and litigants
- Data collection, evaluation, and reporting

We recommend that any pilot mediation program remain small, that only a handful of Croatians be trained as mediators and that a relatively small number of cases be mediated, approximately forty-to-fifty cases at most. The results of the experiment will be reported during the third national ADR Roundtable. Thereafter, recommendations regarding the continued use of mediation, legal and other court reforms, and subsequent action steps will be based on actual experience, rather than perceptions and subjective opinions.

¹¹During an interview, Miljenko Uvrobasa, President of the Commercial Court in Rijeka, indicated preliminary interest in a pilot mediation program being operated in Rijeka.

¹² A comprehensive education strategy geared at the Croatian Bar Association has not been proposed. In our view, until clients begin to encourage their lawyers to pursue ADR, and/or until the Courts begin to require lawyer participation in ADR, lawyers will not see value enough to themselves or their legal practice to participate in general ADR seminars. However, lawyer education held in conjunction with a pilot mediation program, in which lawyers will be participating, will provide the necessary motivation for them to attend an ADR seminar.

Implementation Matrix

The following matrix highlights the sequencing of project activities for the duration of the project period. The months proposed are tentative, and contingent on the availability and participation of several organizations, including ABA-CEELI, Croatian Judges Association, USAID, and others.

Activity	Project Month																							
	Year 2001			Year 2002												Year 2003								
	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	
Croatian Judges' Association Conference																								
Planning, Execution ADR Roundtable #1																								
Private ADR Alliance																								
Start-up Meeting																								
Develop Education Action Plan																								
Implement Action Plan																								
Planning, Execution ADR Roundtable #2																								
Pilot Mediation Program																								
Decide Program Parameters																								
Develop Policies & Procedures																								
Case Selection & Consent																								
Mediator Selection																								
Mediator Training																								
Lawyer Training																								
Mediation of Cases																								
Evaluation and Reporting																								
Planning, Execution ADR Roundtable #3																								
Final Recommendations & Action Planning																								

Conclusion

The project role proposed is one of a catalyst. The approach proposed is incremental. It begins with opportunities for education and dialogue, moves to development of strategies that engage stakeholders, and ends with limited experimentation of mediation of commercial disputes. By the conclusion of the project period, decision-makers will have clear idea about what is feasible and what is appropriate regarding more widespread use of ADR throughout the Commercial Courts in Croatia.

ANNEX

ADR Assessment Activities

Documents Review:

1. ABA/CEELI *ADR in Croatia: An Assessment of the Current Situation and the Future Prospects for its Use*, November 2000
2. Booz-Allen & Hamilton: Croatia Commercial Courts Assessment Draft, June 2000
3. Bankruptcy Administration Project: Implementation Plan, January 2000
4. Croatia Arbitration Rules
5. Croatia Book of Rules
6. Croatia Code of Civil Procedure
7. National Center for State Courts: Recommended Interventions Municipal Courts
8. USAID Statement of Work—Republic of Croatia: Commercial Law Reform Program

Interviews:

Mr. Steven Austermiller
Liaison
ABA/CEELI
Zagreb

Honorable Vladimir Gredelj
President
Bjelovar County Court
& Association of Croatian Judges
Bjelovar

Ms. Pamela Baldwin
USAID American Embassy of Zagreb
Zagreb

Arsen Juric
USAID American Embassy of Zagreb
Rule of Law Projects Manager
Zagreb

Ms. Belinda Cacic
Attorney at Law
Zagreb

Ms. Nada Marras
Commercial Court Judge
Rijeka

Mr. Fredrick Claps
USAID American Embassy of Zagreb
Zagreb

Mr. Richard Martin
Judicial Consultant
Booz-Allen & Hamilton Inc.
Zagreb

Madeline Crohn
National Center for State Courts
Municipal Courts Project: Zagreb
Washington, DC

Mr. Zoran Parac
Professor, University of Zagreb, Faculty
of Law &
Arbitrator, Permanent Arbitration Court,
Croatian Chamber of Commerce
Zagreb

**USAID CROATIA COMMERCIAL COURT
ALTERNATIVE DISPUTE RESOLUTION ASSESSMENT
SEPTEMBER-2001**

Mr. Ranko Pelicarić
President
Croatian Bar Association
Zagreb

Ms. Vlatka Vedriš
Attorney at Law
Vedriš & Partners

Mr. Sinisa Petrović
Professor, University of Zagreb, Faculty
of Law &
Arbitrator, Permanent Arbitration Court,
Croatian Chamber of Commerce
Zagreb

Mr. Nenad Vukadinović
Staff Attorney
ABA/CEELI
Zagreb

Ms. Ana Sihtar
Attorney at Law
Rijeka

Mr. Michael T. Waske
Field Representative
Solidarity Center AFL-CIO
Zagreb

Mr. Vlado Skorup
Commercial Court Judge
Rijeka

Mr. Fredrick G. Yeager
Chief of Party
Booz-Allen & Hamilton Inc.
Zagreb

Miljenko Kurbasa
President
Commercial Court
Rijeka

Mr. Alan Uzelac
Professor, University of Zagreb, Faculty
of Law &
Arbitrator, Permanent Arbitration Court,
Croatian Chamber of Commerce
Zagreb

ADR Process Definitions

Mediation

Mediators facilitate negotiations between parties through a series of joint meetings and confidential private caucuses (meetings between one party and the mediator). They help parties assess their positions, identify their interests, generate possible solutions, and consider alternatives to a negotiated agreement. In accomplishing these goals, mediators may take a *facilitative* or *evaluative* approach.

Mediation is well suited for cases in which:

- The parties wish to maintain an on-going relationship
- The issues and parties' interests are multi-faceted
- Opportunities for creative problem solving exist

Early Neutral Evaluation (ENE)

Early neutral case evaluators render opinions about cases, including the strengths and weakness of the parties' respective positions, the potential verdict regarding liability, and a possible range for damages. Typically, this evaluation is based on abbreviated presentations by the parties, as well as the experience and expertise of the evaluator. It is a confidential, non-binding opinion that serves as a starting point for further settlement negotiations.

ENE is well suited for cases in which:

- The case turns on key legal or factual points
- One or more of the parties have an unrealistic view about the value of a case
- Less experienced attorneys are involved and could benefit from hearing an assessment by a highly experience neutral third party

Mini-Trial

The mini-trial neutral may serve, in part, as a facilitator, mediator, evaluator, and in some instances, as an arbitrator. The parties design their own process, typically consisting of abbreviated presentations by attorneys that are geared toward the key decision-makers for each side. The parties can then assess the strengths and weaknesses of their respective cases and the ramifications of settlement or proceeding to trial.

Mini-trial is well suited for cases in which:

- The dispute is between entities with a business or contractual relationship
- Business concerns are of paramount importance
- Key decision makers are involved in the process

Summary Jury Trial (SJT)

The summary jury trial is an abbreviated presentation of a case by attorneys to a mock jury, which then issues a verdict. A judge presides over the SJT, which may be a public proceeding. The verdict is for informational/advisory purposes only, to help the parties evaluate their case and continue with further settlement negotiations. In one form of the summary jury trial, a jury is chosen from the jury pool of the trial court and jurors are told that the verdict is advisory, only after the verdict is rendered.

SJT is well suited for cases in which:

- A lengthy trial would be required
- Privacy is not a concern

Med-Arb

In med-arb, the parties start with mediation, but if mediation fails, by pre-arrangement, the third party neutral becomes an arbitrator and renders a decision.

Med-Arb is well suited for cases in which:

- The parties seek speedy resolution of the dispute
- Limited discovery is desirable
- Privacy is a concern

Arbitration

Arbitrators decide who wins and who loses. If arbitration is voluntarily agreed to by all parties and not ordered by a court, the arbitrator's award is binding on the parties. An award can only be appealed if there has been serious misconduct by an arbitrator, such as failure to reveal a conflict of interest or refusal to hear one side of a case.

In non-binding arbitration (mandatory court-ordered arbitration), parties have a right to appeal within a specified time. If no appeal is filed, an arbitrator's award becomes binding. In some programs, if an appeal is filed and a new trial is held, penalties may be assessed against the appealing party if that party does not improve on the arbitrator's original decision.

Arbitration is well suited for cases in which:

- The parties seek speedy resolution of the dispute
- Limited discovery is desirable
- Privacy is a concern

**Attachment 17-1:
Roundtable in Developing
Commercial/Court-Annexed
ADR Programs in Croatia;
Pula, Croatia**

ATTACHMENT 17-1

ROUND TABLE IN DEVELOPING COMMERCIAL/COURT ANNEXED ADR PROGRAMS IN CROATIA 10 DECEMBER 2002

Pula, Croatia

8:45-9:00	Registration	
9:00 – 9:10	Opening and introduction	Šime Vidulin President of Pula Chamber of Economy
9:10-9:25	Remarks	Miljenko Kurobasa President of Commercial Court in Rijeka
9:25-9:30	Remarks	Dr. Aldo Radolović President of County Court in Pula
9:30-9:45	Introduction of guests	
9:45-10:30	Aspirations for ADR in Croatia Roundtable Objectives	Robert C. Randolph Carr, Falkner Swanson, Washington, D.C.
10:30-11:00	Overview of ADR – what it is? The continuum of ADR processesq	Robert C. Randolph
11:00-11:15	Coffee break	
11:15-11:45	ADR, Mediation & Conciliation In Croatia	Prof. Alan Uzelac University of Zagreb Faculty of Law
11:45-14:00 (with break)	Court Annexed Mediation Netherlands	Judge Hans Steenberghe Court of Appeal, Arnhem
	United States of America	Ret. Judge Tim Lewis U.S Court of Appeals for the Third Circuit
	Small group discussions – the role of court annexed programs in Croatia	
14:00-15:00	Lunch	

15:00 –15:30	Models for Lawyer’s Participation	Domagoj Čajkovski Vice-President of Croatian Bar Association President of Rijeka Bar Association
15:30-16:00	Models for Business Participation	Anthony Maton, K Legal Group London, England
16:00-16:30	Questions & Answers: Models for Participation	Domagoj Čajkovski Anthony Maton Moderator: Robert Randolph
16:30-17:00	Building Commercial/Court Annexed ADR Initiatives in Croatia Small group discussions Group A	<u>Moderators:</u> Judge Steenberghe Robert Randolph
	Group B	<u>Moderators:</u> Judge Lewis
	Group C	<u>Moderators:</u> Anthony Maton Domagoj Čajkovski
17:00-17:15	Small Group Reports	
17:15-15:30	Wrap-up	Robert Randolph

**Attachment 17-2:
Roundtable in Developing
Commercial/Court-Annexed ADR
Programs in Croatia;
Rijeka, Croatia**

ATTACHMENT 17-2

ROUND TABLE IN DEVELOPING COMMERCIAL/COURT ANNEXED ADR PROGRAMS IN CROATIA 12 DECEMBER 2002 Rijeka, Croatia

8:45-9:00	Registration	
9:00 – 9:10	Opening and introduction	Josip Stanković President of Rijeka Chamber of Economy
9:10-9:25	Welcome Remarks	Miljenko Kurobasa President of Commercial Court in Rijeka
9:25-9:45	Introduction of guests & remarks	
9:45-10:30	Aspirations for ADR in Croatia Roundtable Objectives	Robert C. Randolph Carr, Falkner Swanson, Washington, D.C.
10:30-11:00	Overview of ADR – what it is? The continuum of ADR processes	Robert C. Randolph
11:00-11:15	Coffee break	
11:15-11:45	ADR, Mediation & Conciliation In Croatia	Prof. Alan Uzelac University of Zagreb Faculty of Law
11:45-14:00 with break)	Court Annexed Mediation Netherlands	Judge Hans Steenberghe Court of Appeal, Arnhem
	United States of America	Ret. Judge Tim Lewis U.S Court of Appeals for the Third Circuit
	Slovenia	Judge Gordana Ristin, Court of Appeal in Ljubljana
	Small group discussions – the role of court annexed programs in Croatia	
14:00-15:00	Lunch	

**Attachment 18-1:
Roundtable on Developing
Commercial ADR Programs
in Croatia;
Opatija, Croatia**

ATTACHMENT 18-1

**ROUND TABLE ON DEVELOPING
COMMERCIAL ADR PROGRAMS IN CROATIA**

**3 March 2003
Opatija, Croatia**

8:45 – 9:00	Registration	
9:00 – 9:05	Welcome	Fred Yeager Booz Allen Hamilton
9:05 – 9:30	Remarks	Josip Stanković President, Rijeka County Chamber of Economy Jasna Jaklin- Majetić First Secretary, Pula County Chamber of Economy
9:30 – 10:15	Group Discussion: Frustrations & Problems with Dispute Litigation	Moderator: Pete Swanson Carr, Falkner & Swanson
10:15 -11:15	Mock Mediation	Pete Swanson Robert Randolph Carr, Falkner & Swanson
11:15 – 11:30	Coffee Break	
11:30 – 12:00	ADR and Mediation in Croatia	Davor Babic Croatian Chamber of Economy: Conciliation Center
12:00 – 1:15	The Mechanics of ADR and Working with Third Parties	Davor Babic, Robert Randolph

**Stella Šimunović
KPMG**

1:15 – 2:15 Lunch

2:15 – 2:45 Expenses and tax implications

**Paul Suchar
KPMG**

2:45 – 3: 00 Developing an ADR capacity

**Marinela Mostić
KPMG
Robert Randolph
Pete Swanson**

3:00 – 3:15 Coffee Break

**3:15 – 4:15 Building Commercial ADR Initiatives
in Croatia**

Group Activity

4:15 – 5:00 Small Group Reports

Group Activity

5:00 – 5:15 Summary, Next Steps

Next Steps

5:15 Adjourn

**Attachment 18-2:
Roundtable on Developing
Commercial ADR Programs in
Zagreb, Croatia**

ATTACHMENT 18-2

**ROUND TABLE ON DEVELOPING
COMMERCIAL ADR PROGRAMS IN CROATIA**

**5 March 2003
Zagreb, Croatia**

8:45 – 9:00 Registration

9:00 – 9:05 Welcome

Hamilton

**Fred Yeager
Booz Allen**

9:05 – 9:30 Opening Remarks

**Michael Greene
Director,
Economic Office
USAID Zagreb**

**Ranko Pelicarić
President
Croatian Bar
Association**

**9:30 – 10:15 Group Discussion: Frustrations &
Problems with Dispute Litigation**

Swanson

**Moderator:
Pete Swanson
Carr, Falkner &**

10:15 -11:15 Mock Mediation

Pete Swanson

**Robert Randolph
Carr, Falkner &**

Swanson

11:15 – 11:30 Coffee Break

11:30 – 12:00 ADR and Mediation in Croatia

**Davor Babić
Croatian
Chamber of
Economy:
Conciliation
Center**

**12:00 – 1:15 The Mechanics of ADR and Working with
Third Parties**

**Davor Babić
Mladen Vukmir
Vukmir &
Associates
Robert Randolph**

1:15 – 2:15	Lunch	
2:15 – 2:45	Expenses and tax implications	Paul Suchar KPMG
2:45 – 3: 00	Developing an ADR capacity	Marinela Mostić KPMG
3:00 – 3:15	Enforcement of Mediated Settlement Agreements	Stella Šimunović KPMG
3:00 – 3:15	Coffee Break	
3:15 – 4:15	Building Commercial ADR Initiatives in Croatia	Group Activity
4:15 – 5:00	Small Group Reports	Group Activity
5:00 – 5:15	Summary, Next Steps	Next Steps
5:15	Adjourn	

**Attachment 19-1:
Agenda for Basic Mediation
Training**

Attachment 19 -1

AGENDA for Basic Mediation Training

May, 2003

DAY I

8:30AM – 4:00 PM

- Welcome, Introductions, Purpose, Objectives
- Overview of Alternative Dispute Resolution
- Mediation Demonstration
- Phase I - getting to the Table lecture, (Demonstration and Debrief)
- Phase II - Story telling by Parties and Phase III - Dialoguing with the Parties (Lecture, Demonstration, Debrief)
- Participants Role Play of Phases I - III and Discussion,
- Phase IV - First Separate Sessions
- 12 Angry Men video
- Review, Q&A
- Close

DAY II

8:30AM – 4:00 PM

- Traditional and Interest Based Negotiations
- Phase V - Subsequent Separate Sessions
- Phase VI - Closure and Agreement Writing
- 12 Angry Men
- Review, Q&A
- Close

DAY III

8:30AM – 4:00 PM

- Working Styles Exercise
- Mediation Role Play 2
- Mediation Role Play 3
- Mediator Quiz
- Applications of Mediation in Croatian
Commercial Mediation Program
- Evaluation
- Close

Instructors: Pete Swanson, Frank Carr, Robert Randolph

Attachment 19-2: Advanced Mediation Training

ATTACHMENT 19-2

Carr Swanson & Randolph/Booz Allen Hamilton/US Agency for International Development

Advanced Mediation Training November, 2003

Instructors: Pete Swanson, Frank Carr, Robert Randolph

Day 1

8:30 - 4:30 PM

Welcome, Introductions, Purpose, Objectives

Mediator Roles and Responsibilities

Commercial Mediation Demonstration

Getting to the Table, Introductions and Mediator Opening Statements discussion

Crafting an Opening Statement

Role-play

Review, Q&A

Close

Day 2

8:30AM - 4:30 PM

Mediator Challenges

Dealing with Difficult Behaviors

Facilitating Caucuses - discussion

Role-Play

Review, Q&A

Close

Day 3

8:30AM - 4:30 PM

Mediator Quiz

Mediator Ethics

Facilitating Difficult Conversations

Role-play

Applications of Mediation in Croatian Commercial Mediation Program/next steps

Evaluation

Close

Attachment 20: Train the Trainer Course

ATTACHMENT 20

TRAIN THE TRAINER COURSE--OCTOBER 22-23, 2003

Schedule

Overview: “Train the Trainer” Basic Course—After a review of basic facilitation and training techniques during the morning of the first day, CSR trainers will divide class into groups, and then coach each group in teaching a module of the mediation process. Each group will be tasked with designing and presenting a 2 hour mediation module on some portion of a basic mediation program during the second day. During the second day each group will make a presentation of its particular module before the whole class, followed by a class critique of each group and a wrap-up by CSR.

First Day

9:00 Introduction: Overview, Expectations and Purpose of Course (PJBS)

9:30 Adult Learning Module: balancing lectures, exercises, Socratic dialogue (PJBS)

10:30 Break

11:00 Facilitation techniques and Mechanics: room set-up, visual aides, presentation aids (PowerPoint, flip charts, markers), breaks/lunches/refreshments (FC)

12:00 Icebreakers and Role-Plays (RCR)

1:00 Lunch

First Day—Afternoon Session

2:00 Carr, Swanson and Randolph will each coach a group through its design, preparation and thinking about a presentation which will be made to the entire class on the second day on an aspect of mediation. Coaches will emphasize making communication and negotiation skills a part of the presentation. Class members will be advised to consult their “Instructor’s Manual” in preparing the presentations to be made the following day on, for example:

- Getting to the Table/Mediator’s Opening.
- Communication and Negotiation Skills
- The opening session and its increased importance as a result of new legislation
- Separate Session[s]/Caucuses taught from both the Croatian and international context
- Final separate sessions, Closure and agreements

3:30 Break

4:00 Continue Developing Presentations.

5:00 Close

Second Day—Student Presentations

Overview: Each group presents a two hour module to the class. Class will critique presentations and provide feedback

9:00—11:00	Group 1: two hour presentation
11:00	Break
11:30—1:30	Group 2: two hour presentation
1:30	Lunch
2:15	Group 3: two hour presentation
4:15	Break
4:30	Class Feedback and CSR Wrap-up
6:00	Close

**Attachment 21:
List of Forms; Carr Swanson &
Randolph; Croatian Bar
Association and Commercial
Court Judges**

ATTACHMENT 21

LIST OF FORMS CARR SWANSON & RANDOLPH CROATIAN BAR ASSOCIATION AND COMMERCIAL COURT JUDGES

Agreement Mediate With Confidentiality Included
Agreement to Mediate No Confidentiality Provision – Cro.
Basic Information on Mediation-CRO
BASIC Information on Mediation-English
Confidentiality Agreement.separate.final
Croatian First Ruling-CRO
Croatian First RulingEnglish
Croatian Second Ruling-CRO
Croatian Second Ruling English
Croatian Third Ruling CRO. Notarized
Croatian Third Ruling Eng Notarized
Croatian Third Ruling CRO Without Notary
Croatian Third Ruling Eng Without Notary
Intake form Eng
Intake form CRO
Mediated Settlement Agreement
Mediated Settlement Agreement CRO non-courtcase
Mediation Confidentiality Agreement Cro
Mediation Agreement Confidentiality Provision Included
Mediation Agreement No Confidentiality Provision
Mediator List Letter CRO
Mediator Qualifications Form
Mediator Qualifications Form CRO
Outline of procedures CRO

Attachment 22: Representative Newspaper Articles

ATTACHMENT 22
REPRESENTATIVE NEWSPAPER ARTICLES

Justice without Litigation

We pay litigation 30 percentages more than peaceful dispute resolution, if we count penalty interests, court fees, lawyer expenses, expert witness. Conclusion is that, there is significant space for settlement, says Marijan Ćurković, president of the biggest insurance company in Croatia that recently had first successful mediation.

Today, in Croatia we have about 1.6 million unresolved cases from area of economy, admits the president of Supreme Court of Republic of Croatia. One of the reasons for so many backlogs is that till recently it did not exist any legal alternative which would make possible to resolve disputes before they come before the courts.

Mediation, arbitration, settlement conference before a judge are one of the alternative dispute resolutions worldwide used. In USA for example, 80-90 percentages of commercial disputes is resolved in mediation. Excepting Law on Mediation, Croatia has made a frame for using the mediation procedure. Law on Mediation was only one of the last phases of project, which has been started by American firm *Booz Allen Hamilton* in cooperation with USAID, United States Agency for International Development.

"Purpose of the project is assistance in developing suitable economy surroundings in Croatia. One of the biggest concerns for foreign investors but also for Croatian business people is overload of the courts. We focused on resolving of the problem and as possible solution we offered mediation. We focused on Commercial Mediation. We have started the project a year ago with organizing round tables where we informed participants about the procedure. We have organized some ten round tables around Croatia and within cooperation with one Mediation firm in Washington we have organized first training for mediators", explains Chief of Party at *Booz Allen Hamilton*. Mediation Training in duration of 56 hours has finished hundred participants, and ten of them finished Training for Trainers in USA.

Parties chose a Mediator

"I have had cooperated with Booz Allen Hamilton on some previous projects. When I have heard that they started program for mediators, I have applied and got in the process", says Borna Ljubičić from Zagrebacka banka, who has finished all trainings in Croatia and was lucky to attend and finish additional training in USA.

"I had an opportunity to see resolving of a cases with the value of several million dollars which were drawn through the courts for several months and were resolved in two to three hours in mediation." American court practice depends on federal states and Borna got experience in California, where the biggest disputes are resolved in mediation centers. Mediation centers are independent firms that are contacted by those who would like to resolve dispute in mediation procedure. After first contact, the manager of the mediation center contacts opposite party in order to set the mediation. Mediation center gives logistical support, rooms and anything else needed in mediation. The center gives lists of the mediators with the mediator background. The clients chose the mediator upon those informations and the mediation may start.

Mediation in 165.000 cases

Parties pay a mediator 200 Euros, which can be much cheaper than court expenses

Almost three million court procedures were open in Croatian courts last year, and only half of them were solved, while the number of appeals received by second instance courts increases each year, thus increasing the total number of unsolved disputes. About half a million disputes were processed by Commercial courts last year and a good share of such commercial disputes could have been solved out of court, for example, by mediation.

This barely known way of solving disputes in Croatia between legal or legal and physical persons has recently been regulated by a Mediation Act. However, in spite of about a hundred educated mediators, just several cases were been solved by mediation in Croatia. Businesses, workers, insured people, consumers... rarely opt for mediation, though it is much faster and cheaper than court, which means Croats like to go to extremes even though they might lose the dispute:

- Mediation is mostly used in cases where you want to retain good business relationships, where you want to keep information confidential, as disputes are public in most countries and the information presented and decisions can easily become public, as well as in cases where time is an important factor or where a decision against you can be unfavorable because, for example, it damages the public opinion about a company or individual – said Frederick G. Yeager, head of Booz Allen Hamilton project for advancing mediation as an alternative way of solving disputes, adding that Croatia is still in the beginning in comparison to USA, Great Britain, France, Italy or Austria, but is first in the region.

The first in transition countries

The Croatian Mediation Act is the first of such kind in Eastern European transition countries, said F. Yeager, and is very good quality, which will help mediation develop as a way of solving disputes and ensure the arrival of foreign investors.

Due to the condition of Croatian jurisdiction at the moment, it is very important for investors to know that possible disputes can be solved fast and in good quality, said F. Yeager.

Out of court settlement by arbitration in Croatia has been present for decades, and the Croatian Chamber of Economy solves about forty disputes annually that way. However, mediation has some advantages in relation to arbitration.

- Arbitration actually consists of presenting facts before an arbiter, who then makes a decision to the benefit of one of the parties and this is a situation in which you win or lose a dispute. Mediation, on the other hand, enables parties to meet half way, ie. each party makes compromises during discussions and under the advice of a neutral person, who guides them rightly towards settlement. The aim of such settlement is to preserve good business relationships, and that is why it is called a win-win situation – concluded Frederick G. Yeager. Mediation is possible in Croatia in the Croatian Chamber of Economy, and a centre is being founded in HUP, while the Croatian Banking Association is also interested in the initiative.

- We have tried to familiarize citizens and business people with the mediation procedure through informative and educative seminars in numerous cities, and we have solved five cases successfully this year in the Croatian Chamber of Economy – said Davor Babić, secretary of the Arbitrary Court and Conciliation Centre in the Croatian Chamber of Economy.

PROGRAMS First Centers for out of court dispute resolution established at HGK and HUP

Yeager: Out of court mediation is cheaper and faster

By Jadranka Šević

ZAGREB – 80 to 90 percent of all disputes in American economy are resolved in mediation and the majority is resolved in 2-3 days, though it can last up to a month. Frederick G. Yeager, Chief of Party at Booz Allen Hamilton pointed that out at yesterday's presentation of mediation as alternative dispute resolution.

BAH is funded by United States Agency for International Development and has been working on development of mediation in Croatia for a year.

First successful mediation

According to F. Yeager, the first 100 mediators in Croatia were trained, and the Mediation Centers at Croatian Chamber of Economy (HGK) and Croatian Employers' Association (HUP) were established. Such center will be soon established at Croatian Banking Association as well. According to the HGK price list, mediation costs 200 Euro, which is up to 10 times less than the costs of classic litigation and lawyers. Mediator as an independent third party helps parties in out of court settlement and the experiences from USA, Netherlands, Germany, France and Switzerland showed the highest efficiency in disputes between legal entities, disputes in construction, indemnity, intellectual property and management disputes. The first successful mediation in Croatia took place last week. Croatia Insurance was the sued party in this mediation and the mediator was Hrvoje Sikirić, professor at Zagreb Law School. There were 39153 "live" disputes between insurance companies and injured parties in Croatia last year, and every third case ended up in court. In European countries there are in the average 2 percent of indemnity cases which end up in court, and it is estimated that with the mediation program Croatia could achieve that aim in a few years.

Two millions disputes

According to the Ministry of Justice there were more than 2 millions unresolved cases last year and even 1,5 million cases were commercial cases, such as: economic offence, inheritance disputes, land books and enforcement disputes. It is estimated that the number of disputes could be 30 percent lower in a very short period, and the savings in litigation costs would be 30 percent lower as well. Namely, the disputes, which are already before court, can be mediated, if both parties show the willingness. Last month the Law on Mediation took effect and that opens up the possibilities for development of out of court dispute resolution.

Mediation

By mediating between companies you can avoid court litigation

To date, about 71 persons in Croatia passed a training program organized by Booz Allen Hamilton after which they were educated to act as a mediator, a middleman between two parties in a dispute who want to avoid court expenses and speed up the solving of their case.

Another thirty persons are being trained at the moment, with the candidates coming from all lines of work with rich life experience, good persuasive abilities and the ability to gain the confidence of parties in dispute. Booz Allen Hamilton was brought to Croatia by USAID to train persons who would mediate in disputes and therefore help the Croatian Justice System, which is burdened by over a million unsolved cases. Also, through this program ten mediators pass additional training in Los Angeles after which they are educated to train new mediators. “This method of solving disputes is widespread in western countries because companies or individuals want to avoid big expenses and long court procedures during which their work often suffers”, says Robert Randolph from Booz Allen Hamilton. “In the States we have around 85 to 90 percent success in dispute resolution. The parties of a dispute usually share the expenses of mediation, but can also arrange a different division of expenses.” Even if these expenses are paid by only one party, the mediator does not work only for that party, but is neutral and tries to achieve a realistic settlement. The mediator is not interested in who is right, he is not a judge. “In mediation both parties must agree with the reached decision and not until then may they sign the binding contract, as opposed to arbitration where they agree to respect the decision of the arbiter in advance, whatever it is”, says Robert Randolph. Mediation can start before litigation, during litigation or even after the verdict, if the parties assess they can solve the dispute in a more acceptable manner. The key thing for this way of solving disputes is that all things that parties say or arrange during mediation stays confidential. Also, any party may ask for a different mediator during the mediation process, or give up mediation entirely.

**Attachment 23:
Croatian Commercial Courts
Enforcement of Judgments &
Proposed Action Plan,
December 2001**

ATTACHMENT 23



**UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT**



**CROATIA COMMERCIAL COURTS
ENFORCEMENT OF JUDGMENTS & PROPOSED
ACTION PLAN
DECEMBER 2001**

**USAID SEGIR IV
Contract No. PCE-1-00-98-00013-00 Task Order No. 808**

Prepared by:

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INTRODUCTION

The purpose of this report is to analyze obstacles to effective enforcement of commercial court judgments in Croatia, and recommend a set of initiatives and a timeline to remedy the current situation. The report draws on interviews and observations of court operations conducted during a two weeks onsite visit, and on prior reports and documents.

The current system in Croatia leaves creditors wondering whether there was any point in obtaining a commercial court judgment if the judgment is unenforceable because of delays and/or obstacles. The enforcement system is described by many creditors as "lacking teeth." Some debtors are known to play the system to their advantage, in the knowledge that only the most tenacious or well-funded creditor will be able to make them pay a judgment debt. The absence of a general enforcement of judgments in commercial court cases is likely to interfere increasingly with the needs of trade and business. There are many reasons for delays in the enforcement arena. The needed reforms will necessitate changes to current court operations and practices, effective sanctions for non compliance with court orders, reforms to the appeal process, a more informed judiciary and Bar and improved collaboration between them, legislative and rule changes, and public support – particularly from the business community.

I. CURRENT STATUS

A. The Economy

Croatia is on the brink of many changes that will occur in the next ten years. The reforms that the Government of Croatia (GOC) is taking are perceived as an essential ingredient of the general effort for modernizing the government apparatus, bringing Croatia into line with West-European institutions, and future membership in the European Union.

Most observers agree that economic growth in Croatia will occur only if a vibrant and competitive private business sector exists. Yet, when businesses cannot collect on court ordered payments of debts, many are forced into bankruptcy, and others must lay off employees or pass on costs to the consumers. It follows that lack of enforcement of judgments has a detrimental impact on the country's economy, and that reforms to ensure compliance with Commercial Courts judgments are an important component of the GOC's institutional reform agenda.

B. Enforcement of Commercial Courts decisions

1. First instance:

Approximately 50% of First Instance Commercial Courts decisions are not enforced. The reasons both result from and contribute to the poor economic condition of Croatia. Problems include:

- Companies continually change bank accounts to avoid paying the judgment issued by the Court
- Defendants' attorneys are allowed, with few or no sanctions, to delay endlessly the processing of the case; and can toll execution by abusing the appeal process

- Judges seldom use available sanctions to control attorneys' behavior, either because they are not sufficiently familiar with the law and sanctions related procedures, or because use of the sanctions adds to their workload since sanctions can be used as grounds for appeal
- Courts have difficulties in obtaining information from and communicating with clearing and other banks (enforcement orders can be issued only for particular bank accounts).
- The execution of a judgment in favor of the plaintiff is a cumbersome process, complicated by the 22 percent value added tax (VAT): in order to collect, a company must file its returns with the tax department, showing the outstanding accounts receivable and payable, with the appropriate legal action taken on the receivable
- Papers are sometimes lost or misplaced, notices and other papers are not sent out in a timely manner, and summonses are improperly served
- There is no formal training for new staff nor is there continuing education for employees – whether judicial or administrative
- Observers indicate that some level of corruption exists, such as favoritism toward a local enterprise

The issue of whether commercial court judgments can be enforced is important for a number of reasons, among which are its bearing on the relationship between the legal system and the economic system. The rules of the game have to change. But the move from a hierarchically administered economy to a primarily market economy means more than just changing the content of the rules. It implies a whole new way of rule making and rule enforcing. If commercial court judgments cannot be enforced, then the rules that they purport to implement have little significance, and this has crucial implications for the direction of economic reforms.

Commercial courts can only take responsible decisions about enforcement if they have sufficient information about debtors' circumstances. The courts should be enabled to play a more proactive role in obtaining information about debtors, through access to alternative sources of information. The court should be able to assist the creditor to enforce a judgment by making selected information about the debtor available.

Initiatives to remedy these obstacles include:

- Four key external sources that would be likely to provide the necessary information to make an enforcement option more effective are:
 - a) Banks and Buildings Society - for information about a debtor's financial circumstances, to support a garnishee/charging order;
 - b) Department of Social Security - for information about any benefits paid to the debtor;
 - c) c) Driver Vehicle Licensing Agency - for information about vehicle ownership to support a warrant or writ of execution; and
 - d) Inland Revenue - for information about the debtor's annual earned income from employment and National Insurance contributions paid on earnings.
- The mechanism for obtaining information about debtors from external sources should be by way of a court order, requiring the disclosure of specific information. Examples of the kind of information which the court may need to obtain from an external source would include details of a debtor's bank and/or building society account(s), in order to establish whether a garnishee order might be appropriate, or employee details from an employer to be able to consider an attachment of earnings order. The court order used would

complement the existing methods of information gathering. The order would be subject to the discretion of the court and could be made either at the court's own motion or on an application by the creditor. Not only would this provide a more effective method of obtaining information about a debtor's financial circumstances, it would also act as a powerful incentive to encourage debtors to respond to requests for information in the first instance.

- Post judgment inquiries immediately after the hearing would be useful and their value would be sufficient to justify the time that these matters would take. This revision to current practice should be seriously considered because it emphasizes the importance of paying. (Necessary safeguards could be built in to prevent possible misuse. These safeguards could be achieved by ensuring an appropriate degree of judicial control over both the process and the information obtained through the order.)
- Sanctions have to be reviewed and increased. Currently, the only sanction available is stated in Section 110 of the Code of Civil Procedure.¹ Most judges, attorneys, and businesspersons say that the existing sanctions are inadequate and do little to encourage cooperation with the court.
- Other alternative sanctions are available. Short of imprisonment, there could be the imposition of higher interest rates on debts in cases where the debtor failed to provide information or attend court. Other options are the withdrawal of passports, suspension of driving licenses, community service, bar on future credit, inhibiting disposal of assets, publication in the press of the debtor's contempt of court, withdrawal of tax concessions, loss of protection from the Statute of Limitations for debt-related transactions, and imposition of director's (if related) personal liability for the company's debt. These are sanctions not just for failure to pay the judgment debt, but also for refusal to cooperate with the court's request for information or order to attend court.
- Extreme improvement in the current bailiff system is needed. In Croatia, the bailiff system is virtually non-existent in the area of executions. This is one area that if worked properly could support itself. In Russia, enforcement actions must be carried out within two months of the day of receipt by the bailiff of the execution document.² If the debtor lacks sufficient monetary assets, enforcement is levied against its other property, except for property which enforcement cannot be levied in accordance with the law (i.e., bare minimum of clothing, household items and food). The debtor has the right to indicate the property against which enforcement should be levied first.

2. Appeal

¹ Croatia - Art. 110: "Litigation court will penalize up to 3000 kuna a person who in a pleading offends the court, party or other participant in the proceedings. Stated penalty according to paragraph one of this article does not affect pronouncing a sentence for a criminal offense. If a person who is penalized cannot pay this penalty (monetary penalty), he will be placed in prison, whose duration is determined by the court in accordance with the pronounced sentence, but which cannot be longer than ten days. Provision in paragraph 3 of this article will be used in all cases when a court pronounces a monetary penalty."

² "Enforcement of Judgments in Russia - in Theory and Practice" - East/West Executive Guide, January 1998. Further, in Russia, prior to filing with the bailiff-executor, the creditor can send the execution document for the recovery of money assets directly to the bank in which the debtor has assets. The debtor's bank has three days to turn over the funds or to declare that the account contains insufficient funds to satisfy the judgment. Noncompliance by the bank exposes it to a fine of 50 percent of the amount to be recovered.

First instance judgments are appealed at an approximate rate of 50 percent of all cases, and enforcement of the judgment is ineffective until the appeal process is finalized. Such a high rate of appeal burdens the courts and reduces their efficiency and effectiveness. Further, the rights of the prevailing party go unprotected for a substantial period of time.³ Since the appeal has suspensive effect, this creates the possibility of abuse by the appellee, who is in a position to delay the proceedings and the satisfaction of the judgment.

A review of 50 cases from 1999 and 50 cases from 2000 from the Rijeka High Commercial Court indicates the following:

<u>1999</u>	<u>Days from Receipt to Disposition</u>	<u>Days from Hearing to Disposition</u>
	303.56	51.78
<u>2000</u>	<u>Days from Receipt to Disposition</u>	<u>Days from Hearing to Disposition</u>
	274.44	45.12 ⁴

Appeals in commercial cases appear to be regularly abused and while there are measures that can be taken to avoid these practices, the provisions of Croatian CPC Articles 10 and 316 are seldom enforced. Reasons include:

- Grounds for appeals are quasi-unrestricted: new evidence can be introduced after a decision has been reached by the lower court; formal elements - such as the identification of the appealed judgment, statement of whether the appeal is filed against the entire judgment or a portion thereof, reason for the appeal, and the signature of the appellant – can be ignored by the appellant with little or no consequences.
- Other illustrations of loopholes from which the appellant can profit include: 1) if there is no identification of the judgment or if there is no signature, the first instance court can only decide to call to the appellant to correct the appeal and afterwards, if the appellant does not comply, declare the appeal to be inadmissible; 2) if any of the other formalities are not met, the first instance court must transfer the appeal to the higher court without calling the appellant to correct the appeal; 3) if there is no statement on whether the appeal is filed against part of or the entire judgment, the High Commercial Court must assume that the appellant's appeal is against all parts of the judgment where it was unsuccessful⁵; 4) if the notice of appeal does not mention its reasons, the appellate court must consider "ex officio" the reasons mentioned in CPC Article 354, Section 2 and correct application of the substantive law.⁶
- Sanctions to control this situation are limited and weak, and are seldom applied.

³ Information provided during an interview on October 17, 2001, with Eduard Kunstek, Assistant Professor of Law, Rijeka Law School.

⁴ Information provided during an interview on October 24, 2001, with Richard T. Martin, Judicial Consultant, Booz-Allen & Hamilton, Croatia.

⁵ Information provided during an interview on October 17, 2001, with Eduard Kunstek, Assistant Professor of Law, Rijeka Law School.

⁶ Croatia - CPC Art. 365, sec. 2.

Potential remedies ⁷include:

- **Amending the law regarding the introduction of new evidence at the appeal stage;**
- **Increasing and expanding sanctions pursuant to CPC Section 110.**
- **Amending the law regarding meeting all formal elements for an appeal.**
- **Enforcing provisions of Croatian CPC Articles 10 and 316.**

3. Comparisons with Other Countries

The latest procedural reform in Italy changed the traditional rule of suspensive effect of the appeal, making first instance judgments immediately enforceable. However, the court of appeal can, upon a party's request, order a stay of execution in certain situations. Appeal has no suspensive effect in many other countries, including common law countries such as Ireland and Israel, and the United States where the filing of an appeal generally does not suspend the enforcement of a trial court judgment. The Croatian Law on Enforcement is outside the mainstream of comparative civil procedure, which tends toward non-suspensive effect of the appeal.

With regard to the issue of whether new evidence may be introduced at the appellate level, the Austrian law of civil procedure (ZPO) completely bans the production of new evidence and any amendment of the claim petition on appeal.⁸ The Ethiopian CPC provides that parties to an appeal shall not be entitled to produce additional evidence in the appellate court.⁹ One interesting solution regarding Chinese civil procedure is that the appellate court may resolve the dispute through mediation¹⁰ and the appellate court has to decide the case in three months. This brief list of practices, drawn from several countries on most of the major continents, demonstrates that in Croatia the introduction of new evidence at the appeal stage should be eliminated

C. Attorneys and the Croatian Bar Association

The need for professional responsibility among attorneys and the Croatian Bar Association appears to be greater than ever before. Most individual attorneys' standards of practice no longer reflect the norms of the professional community as they once did during the Communist era.

⁷ A working group in charge of revisions to the Code of Civil Procedures is addressing several of the current inefficiencies due to weak sanctions, unrestricted grounds for appeal, and license to introduce new evidence at any time during the processing of the case. It is not clear, however, which of those revisions will be approved by the Legislature, nor by when.

⁸ Information provided during an interview on October 17, 2001, with Edward Kunstek, Assistant Professor of Law, Rijeka Law School.

⁹ Ethiopia - CPC Art. 345. If the first instance court refuses to admit evidence that should have been admitted or if the appellate court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause.

¹⁰ China - CPC Art. 153.

The Croatian Bar Association is a "closed" bar association, recognized as the single bar association in the country, a monopoly that holds users of legal services hostage and provides them with no other choices. Like empires, all monopolies eventually crumble, because someone or something comes along and breaks their stronghold on the supply of services. Sometimes this is due to action by the government itself, or by users of the services (clients). This monopoly exists, even though there is a Croatian Woman's Bar Association. Women comprise the majority of lawyers and judges in Croatia.

Attorneys are able to manipulate the system on behalf of their client(s) because the use of judicial sanctions against abusive practices is rare. If a judge sanctions an attorney and refers the bar member to the Croatian Bar Association, very little, if anything, is done. In most cases, the attorney may be talked to or served with a written reprimand, but is seldom, if ever, voted out of the bar association.¹¹ There are no reports published regarding discipline or hypotheticals given in order that other attorneys may learn from the disciplined member's actions. Therefore, when choosing an attorney the public/customer has no access to information on unethical service providers when they search for counsel to represent them.

Professional ethics tend to be a low priority for attorneys in Croatia.¹² Part of the current problem is that attorneys can skirt around the rules as they are written and become experts in delay tactics. Attorneys often abuse procedural rights by intentionally delaying commercial court hearings. For example, they are reported to feign illness frequently, scheduling conflicts, business trips, and allege that important witnesses are not available in order to delay cases. Other abuses include filing claims with the court without any documentation, negative and groundless comments made by lawyers about opposing counsel during court hearings, a tariff (fee charged by attorneys) which encourages adjournments since fee schedules exist for each action taken by and event involving counsel, preferential fee structures for Croatians vs. foreigners, and lack of control of clients.¹³

In summary, there appear to be no regulation nor enforcement of discipline to guide attorneys' behavior and practices. This lack of accountability is linked directly to the weakness of execution of Commercial Courts' judgments. Any reform efforts aimed at improving enforcement of the courts' decision must include a component in the short term to hold the bar more accountable; and, in the longer term, change attorneys' culture and practices that are consistent with bar associations' professional conduct and ethics adhered to in most West European countries.

D. Judges and the Croatian Judges' Association

Newly appointed and other judges are in dire need of training in sanctions, rules and procedures, the appeal process, and laws relating to the Commercial Court execution/enforcement process. Currently in most cases in commercial court judgments, the court provides little or no information about the debtor to the creditor who has won and seeks payment. The perceived ineffectiveness of the current information gathering process, and the courts' apparent inability to compel intransigent debtors to provide the necessary information, undermines the authority of the courts and, ultimately, the civil justice system.

¹¹ Information provided during an interview on October 24, 2001, with Attorney at Law, Mladen Sucevic, representative of the Croatian Bar Association.

¹² Information provided during an interview on October 17, 2001, with Attorney at Law, dr. Gordan Stankovic, Partner, Head of International Department, Law Firm of Vukic, Jelusic, Sulina & Stankovic.

¹³ Information provided during an interview on October 17, 2001, with Attorney Ana Sihtar (who is also president of the Croatian Women's Bar Association).

Further, the Croatian Commercial Courts – as is the case for most Croatian courts - are characteristically occupied with attempts to meet current demands on their limited resources, at the expense of long term management and improvement strategies. They tend to be reactive to circumstances rather than proactive about the future, and a culture of the *status quo* prevails. This contributes to low public regard for the courts. For many litigants, it is demoralizing to realize that the judgment itself was of little value if the defendant was not prepared to pay. Many of the plaintiffs would appreciate more proactive courts that actively support reforms.

Most interviewees think that existing sanctions are inadequate¹⁴ and do little to encourage defendants and their attorney's cooperation with the court. Also, they reported that many judges knew little about how to effectively use the sanction process. Little enforcement related training or mentoring exists. The only relevant training that was mentioned is conducted by the American Bar Association, Central and East European Law Initiative (ABA CEELI), "Conducting the Main Hearing." (March and December 2001). One course component covers "disciplining lawyers" but very few new judges were included in the March 2001 training session. These sessions, while helpful, have a limited impact because they are one-time events, reach a limited audience, and do not appear to have a built-in follow up.

Changing knowledge about the law, or the skills in handling a case will not in and of themselves ensure that the courts' efficiency and transparency will improve. On the contrary, it might well give the illusion that important change is occurring when probably it is not. Public support for the courts, on the other hand, is proportionate to the efficiency and transparency of the judicial system. Without changes in attitudes and behavior, there is no guarantee that the knowledge and skills learned will be put into practice.

Reforms in the enforcement of commercial courts' decisions require a systematic, ongoing training program, and the judges' active involvement in, and support for, changes in operations and practices.

E. The Business Community

The business community argues that many companies are on the brink of bankruptcy: since they cannot collect as a result of a decision in their favor, they are forced into bankruptcy proceedings. Even those who are able to avoid bankruptcy suffer from other adverse consequences leading to lost jobs and potentially higher prices passed to the consumer. One former president of the American Chamber of Commerce in Croatia felt that the current enforcement of commercial court judgments is a disaster. He stated that, "You cannot collect and the contract originally signed is not worth the paper it is written on. To be successful in court, you have to know people." He further said that, "There are very few competent lawyers, yet these lawyers make lots of money under and over the table."¹⁵ In its July 2001 issue, the AmCham Newsletter makes this statement: "Despite some opinions to the contrary, Croatia, has, in essence, a very liberal bankruptcy law and corruption is on the decline. ... Administrative and judicial efficiency, unfortunately, lags behind the more advanced transition countries."

¹⁴ Croatia - CPC Art. 110. "Litigation court will penalize up to 3000 kuna a person, which in a pleading offends the court, party, or other participant in the proceedings."

¹⁵ Information provided during a telephone interview on October 26, 2001, with Michael Glaser, former president of the American Chamber of Commerce in Croatia.

Legislators, lawyers, and citizens all have legitimate, but different, interests in how the judicial system operates and should operate. Thus, if judges wish to regain control of the administrative structure of the courts, they need to make ample provision for consultation with - and seriously listen to - stakeholders who have a vested interest in the courts. Their views will find expression through legislation that affect the judicial system and enforcement of adjudication, counter-productive attorneys' behavior, or negative press that reflects public frustration with the courts. Also, governments that support reform must be prepared to participate in lengthy struggles with the legislature, reach out to the citizenry to elicit public support, and face possible criticisms.

The Croatian Chamber of Commerce, in its report "Economic Profile" in Croatia, Your Business Partner, published in Zagreb in April 2001, states: "The country has been experiencing dynamic changes of its economic and social structure, which will become even more intense in the forthcoming period." It also states, "Overall political and economic stability, an efficient legal system, democracy and free entrepreneurship are the basic prerequisites for economic development that will enable Croatia to join the community of modern and democratic states and to become a full member of the leading economic associations world-wide. The main goals on this path are an increase in production and exports, the reduction of public spending, the acceleration of privatization and the continuation of restructuring of economic entities."

II. RECOMMENDATIONS AND ACTION PLAN

Croatia has a history of a judiciary subservient to the executive, and its independence is relative, and the concept of reciprocal controls among the branches of government has yet to become part of the mainstream. Many observers say that initiatives to address problems facing the courts will be interfered with by a very powerful Bar association. Short of a major effort to reform Bar member practices, these initiatives may prove to be fruitless; and, without external pressures, individual practitioners will not make any changes for this would go against their own, financial interest. Changing the judiciary will prove to be equally difficult, given a tradition of passivity and the lack of built-in incentives to reward efficiency and effectiveness.

Advocates of change must not only convince the citizenry of the desirability of reforms, they must also persuade the judiciary and the Bar. Given the magnitude of such change, a successful reform requires a sound and finely tuned strategic plan, one that incorporates the realities in Croatia. It needs to incorporate a clear understanding of the internal juridical culture -- a factor determinant to the success of change -- of its allies, the functioning of the political system, and level of human and material resources available. The simple exporting of models from one country to another is not appropriate. Rather, reforms should reflect solid, consensual political support by sectors of society that will be affected by it, and be advanced as a matter of national significance.

The recommendations below are driven by the goal of reducing resistance to change, and include:

- Identification of and support to leaders within the judiciary and the Bar who are favorable to change.
- Establishment of informal opportunities for dialogues with judicial and Bar leaders, toward eliciting from them their expectations.
- Involvement of representatives from the Supreme Court and State Judicial Council.

- Ongoing and active continued education programs, sensitizing judges and attorneys to issues of change, using methodologies that are sophisticated and participatory.

Beyond the participation of judges and attorneys, the strategy must also include an outreach to trade and commerce associations, and leaders of the business community. Participation must be encouraged and seek to meet two objectives: augment the support base for reform, and strengthen its technical content.

In order for execution of judgments in Commercial Court cases to be addressed further, a working group should be established with the approval of the Ministry of Justice and State Judicial Council, and support from the Commercial Courts leadership. This working group would provide for a "buy-in" mechanism that promotes an on-going dialogue between donor-sponsored assistance and host country representatives from the judicial and private sectors. Its membership should be limited (approximately five members) to optimize its effectiveness, and include:

- High Commercial Court Judge
- Commercial Court Judge
- Commercial Court Lawyer
- Business Leader (international in scope)
- Trade/Commerce Leader

This committee should meet every 60-90 days with a set agenda with facilitation from Booz-Allen & Hamilton. Chief of Party, Frederick Yeager, or his designee would serve as a technical advisor. For example, the committee would work on an ongoing basis to identify appropriate targets for regulatory and legislative reform affecting enforcement of judgments.

TIME FRAME: January 2002-August 2003.

A. More Efficient Processing of Cases

1. Limitations on Grounds for and Use of the Appeal Process

As noted above, it took approximately 355 days in 1999 from the time the appeal reached the High Commercial Court to disposition. In 2000, it took approximately 321 days to be resolved.

PROPOSED ACTIVITIES AND TASKS:

Through legislation and education, the appeals process should be changed to include disincentives and reduce opportunities for appeals (see footnote 10. above.) For instance, if one of the parties causes delays through the introduction of evidence which could have been produced earlier, the party would be obligated to pay the expenses of the new court hearing (including the proceedings from the second instance court), expenses for the collection of the new evidence, expenses of the other party and its representative for the additional court hearing, as well as an additional fee of one-third of the initially-determined fee. Attitudinal changes on the part of judges, facilitated by training, are necessary to ensure the imposition of such penalties. Similarly, the law and regulations should be amended to preclude the introduction at the appellate level.

TIMEFRAME: January 2002-August 2003.

2. Increased Use of Sanctions

The Bar and Judges' Associations through their actions should encourage both judges and attorneys to be fully cognizant of and to operate within existing court rules, and to enforce and abide by sanctions when rules are not observed. For instance, attorneys are able to appear for a hearing without being prepared because sanctions available on this matter are applied inconsistently among different judges and different courts. The same applies to no-shows and lack of cooperation by counsel.

PROPOSED ACTIVITIES AND TASKS:

The courts should strictly administer sanctions for late pleadings and impose penalty fees to delinquent attorneys. Deadlines should be enforced by use of sanctions and verbal admonishments. Overall, judges should be encouraged to have higher expectations of trial practitioners. Presidents of courts should better enforce the provisions relating to misconduct in the courtroom and supervise more actively trial judges' performance – including how to deal with inappropriate behavior as soon as it occurs. Lack of enforcement directly affects the actual or perceived level of professionalism/temperament in the courtroom. Judges should routinely assess and enforce appropriate sanctions when attorneys directly or adversely impact docket management, by failing to follow established rules for instance. Unexcused tardiness, missed deadlines, and lack of uniform application of rules should not be permitted.

TIME FRAME: March 2002 - August 2003.

3. Creation of a Bailiffs' Bureau

At the present time the Commercial Courts do not have a bailiff system. The creation of a division of bailiffs would improve discipline and security within the court and strengthen execution of judgments. If planned properly, this new function could support itself.

A Croatian-based bailiff system could draw from the Russian bailiff experience and tailor it to the Croatian context. As written earlier (see footnote 2), bailiffs in Russia are detailed to the Courts by the Ministry of Justice and are divided into "bailiffs ensuring the established procedure for the activity of the courts" and "bailiff-executors." The former operates in the courtroom ensuring the safety of judges, witnesses, and the courtroom itself. The second is responsible for compliance with procedures and court appearance. Bailiff-executors are also responsible for the direct enforcement of court decisions, i.e., entering premises to search for and remove property, seize money in bank accounts, etc. Resistance or failure to execute the demands of a bailiff can result in administrative or criminal sanctions.

In Russia, the system pays for itself because of enforcement fees. Upon receipt of the execution document, the bailiff-executor sets a deadline (maximum of five days) for the debtor to comply voluntarily. If the debtor fails to do so, compulsory performance begins, with a first assessment of an enforcement fee of seven (7) percent of the recoverable sum. Continued non-compliance compounds the fee due. Enforcement-related actions take place during working days between 6:00 and 22:00 hours.

PROPOSED ACTIVITIES AND TASKS:

Through court rule or legislation, create a Bailiff-Executor Commercial Court Enforcement Bureau that will pay for itself.

TIMEFRAME: January-August 2003.

4. Other Recommendations

The court and the bar should urge enforcement regarding adoption of rules requiring "date certain" scheduling to improve overall enforcement cases. When parties and attorneys are permitted to manipulate schedules and gain unfair advantage, mistrust of the judicial system accrues. Implementing "date certain" dockets would provide parties with more accurate notice of their scheduled appearance and may help ensure adequate preparation. Date certain scheduling will help also prevent multiple, duplicative, unnecessary, and costly preparations for trials that are never conducted. Judges and attorneys would benefit from systematic training in caseload management techniques.

They should agree upon an increase in use of, and techniques that foster pretrial settlement of cases, such as pre-trial conferences at all stages of first and second instance commercial court cases. Through education and training, judges can use these conferences to close out many cases and avoid unnecessary litigation.

PROPOSED ACTIVITIES AND TASKS:

It should be required, through regulatory and legislative changes, that lead counsel be present at settlement conferences so that final decisions can be made. In addition to lead counsel, alternate attorneys should be named on cases whenever possible so that when scheduling conflicts arise, an informed attorney is still available to proceed. The court may also order that the parties be personally present at the conference. During pretrial conference, the judge should discuss with the parties' lawyers and, as appropriate, with the parties personally, the issues of the case; which facts, claims or defenses, are no longer disputed (stipulation); whether new disputed facts have emerged; whether new claims or defenses have been presented; and what evidence will be admitted at the hearing. The principal purpose of the conference, if the case cannot be settled at this stage, should be to exclude issues that are no longer disputed and to identify precisely the issues of fact and claims and defenses and the evidence concerning those issues that will be the subject matter at the hearing.

TIME FRAME: August 2003 or outside Project life.

B. Better Informed Judges, Staff, and Attorneys

1. Judicial Training

Training of new judges and continuing education for all judges is needed if the Croatian judicial system is to become dynamic, transparent, efficient, and respected. The fundamental goals of such training are to change the attitudes, knowledge, skills, and behavior of judges. As noted earlier, sessions on core value are necessary to complement training in the law and

technical skills. Without changes in attitudes and behavior, there is no guarantee that the knowledge and skills learned will be put into practice. While donor seed money could initiate the training, a long-term investment by the GOC will be required to ensure the institutionalization of judicial training, and promote the modernization of the judiciary - a pre-requisite for Croatia to become a partner in the European Union. Interviews with judges confirm their awareness of the needs for qualitative change.

Under this project, a number of initiatives would help kick start judicial education in Croatia. Early in the setting up of this training, a profile of the ideal judge should be created and should include fields and levels of legal knowledge desired, the judging and leadership skills required, the attitudes that an ideal judge should display, and the courthouse behavior desired. Since all that needs to be taught in enforcement cannot be taught in a short period of time, local training capacity should be developed through a Training of Trainers (TOT) program. The Croatian trainers can participate in training sessions at a central site and they, in turn, would hold training sessions for local judges at the courthouse or other local venues.

The trainers will need to be selected carefully, taking into account their interest, capability, and availability to do the job. Courses might cover some of the following:

- Change
- Temperament
- Judicial Ethics
- How to effectively use sanctions and discipline attorneys
- Organizing a Court for Effectiveness and Efficiency
- Commercial Law
- Revisions to the Code of Civil Procedures and their impact on court operations
- The Appeal Process

PROPOSED ACTIVITIES AND TASKS:

The project should conduct TOT sessions then proceed with training new judges. In preparation for the long-term institutionalization of training, the Ministry of Justice, State Judicial Council, and Croatian Judges' Association should jointly establish new judicial education program, including a standard, one-week new trial judges orientation program to orient new judicial officers to their duties and familiarize them with their new ethical responsibilities to ensure fairness in all proceedings, promote uniform court practices, and improve the administration of justice. Continuing education courses should then be selected and a schedule of courses offerings set. Given past experience i.e., judges' resistance to attend training sessions, training might become mandatory and attendance included in performance evaluations. In order to prevent this from becoming a futile exercise, it is imperative that the training be practical, and that the faculty be familiar with inter-active, adult education methodologies.

TIME FRAME: February-August 2003 (or not likely to occur without Government or donor support).

2. Staff Training

While there will be training for judges and attorneys, staff must not be left out of the process. The training foreseen is a combination of content- and process-based courses. Courses based on content will provide knowledge and skills in areas such as, but will not be limited to, supervision, management, and administration. Courses that focus on administration and operations will provide knowledge and skills in new intake procedures, case management processes, and records procedures. Manuals will be developed as key training materials, thus

reinforcing the importance of a written document and the direct connection between job responsibilities and training.

One of the goals of the training program will be to identify future trainers. These may be staff who are enthusiastic and grasp the new concepts and procedures quickly. Project staff could identify these individuals in order to augment their skills and knowledge with educational theory and practice. The long-term goal is to create a core group, drawn from Commercial Courts administrative staff, to assist in future training. This approach encourages sustainability, buy-in, and credibility with the Croatians.

PROPOSED ACTIVITIES AND TASKS:

A consultant will work with Project staff to accomplish the following:

- Conduct a training needs assessment (i.e., customer service, dealing with difficult people, ethics, case management, intake, records, general filing).
- Develop a training schedule.
- Prepare training materials.
- Train, evaluate, and modify.

TIME FRAME: January 2002-August 2003.

3. Benchbook for Commercial Court Judges

There is an urgent need to prepare a Deskbook/Benchbook for Commercial Court judges. Many judges who were appointed recently need a "how to" script at times to follow in areas of law such as appeal procedures. As a first step, a Benchbook should be written and follow the basic format of the "Benchbook for Criminal Trial Judges of the Republic of Croatia" prepared by County Court of Zagreb Judge Marin Mrcela, in collaboration with ABA-CEELI. More specialized Benchbooks (on case types, for example) would be drafted later. In the first Benchbook, these topics should be covered:

- Appeals/Duties of a Judge
- Professionalism
- Sanctions (how to use)
- What is "inappropriate" behavior? (hypotheticals)
- Checklist of documents in a file
- Checklist of information in documents
- Filing time limits
- Judicial Continuing Education and Training

PROPOSED ACTIVITIES AND TASKS:

First, meet with ABA-CEELI staff to evaluate how they may assist in the drafting stages of the above-mentioned Benchbook. A small working group should be organized with specific goals in mind. Membership should include more experienced Commercial and High Commercial Court judges. Judge Mrcela, author of the Criminal Court Benchbook, should be consulted to assist in giving suggestions to create a quality benchbook.

TIME FRAME: March 2002-August 2003.

4. Improving Relationships with and Education of Attorneys

The current, fractious relationship between the courts and the Bar inhibit reforms. The Bar Association and the Croatian Judges Association should be encouraged to collaborate on joint, information sharing and training initiatives, and reflect an agreed upon understanding of substantive law, procedures, appropriate behavior and expectations.

In complement to judicial education initiatives described above, a continuing education program for attorneys would include: mentoring programs to help monitor and acclimate new attorneys into the legal arena, training on how to be effective without being overly aggressive, and internship programs for new attorneys. Attorneys and judges should have refresher classes offered regarding the respective Code of Ethic. The Croatian Bar Association should provide information to judges and attorneys covering important issues that deal with the practice of law. Both associations should lobby law schools to provide more education regarding professionalism, civility, and temperament to ensure new attorneys are on notice regarding the expected standards of behavior. Within law schools, there should also be an expectation that law professors teach in a civil manner as a way of modeling appropriate behavior.

ABA-CEELI should play a role in and help support Bar association reform efforts, for the ABA shares the same constituency and, as such, is a natural choice.

- a) The courts and Croatian Bar Association should establish and publicize mechanisms to informally and positively improve attorney and judicial relations. When egregious behavior/misconduct is addressed formally, public trust and confidence is strengthened.

PROPOSED ACTIVITIES AND TASKS:

The Croatian Bar Association through its local branches should organize programs so that attorneys and judges meet informally to discuss concerns as well as issues that are impacting the system (e.g., "lunch and learn" program, local bench/bar meetings, local bar association dinner meetings). Another way for the Bar Association to deepen its working relationship with the court is to join together on an advisory committee with the Croatian Judges' Association.

These exchanges will have a limited impact, however, if they are not followed by action. In Croatia, formal complaint mechanisms exist, but they are ineffective. "Court Watch" type programs – involving civil society representatives – could provide external pressure for action, by having lay-persons observe court sessions and provide feedback regarding the conduct of attorneys and judges. This information could then be provided to the Croatian Bar Association (if relates to an attorney) and the Croatian Judges' Association for the purpose of sharing information confidentially with the judges and attorneys involved.

TIME FRAME: November 2002-August 2003.

- b) The Bar should select a respected and experienced lawyer or judge to periodically serve as a judicial "ombudsman." This individual would serve as a liaison between

the bench and bar for a specified amount of time and help deal informally with complaints/issues raised by judges or attorneys.

PROPOSED ACTIVITIES AND TASKS:

The Croatian Bar Association should solicit applications and then select the first judicial ombudsman.

TIME FRAME: February-August 2003.

c) The Bar and Judges' Associations should offer programs that deal with "civility." In today's Croatian environment there are pressures on attorneys to win at all costs or to maintain professional composure in the face of an arrogant or disrespectful opponent. There should be civility by lawyers and judges. Trial judges must be vigilant to inappropriate behavior (by attorneys, other judges, or themselves) and make reasonable efforts to insure incivility is not tolerated or rewarded. Consistent incivility that is unchallenged becomes habitual. The rule of law will survive if it not only does justice, but also if it appears to do justice. Incivility among advocates and judges undermines the vitality of the rule of law because it gives the appearance of injustice.

The keys to civility are personal responsibility, education, and enforcement. Enforcement lies in the hands of a wise and prudent judiciary.

PROPOSED ACTIVITIES AND TASK:

The respective codes of ethics of both associations should be revised to more specifically address civility.

TIME FRAME: March 2002 - August 2003.

d) The Bar and judges should develop an understanding of how trial dockets function and of the day-to day mechanics of practice. The Bar should develop guidelines that ensure appropriate preparation by attorneys, such as requiring legal and trial briefs in a timely manner. Trial judges should read all pleadings submitted prior to hearings.

PROPOSED ACTIVITIES AND TASKS:

The Bar and Judges' Association should coordinate efforts to develop courses and work with law schools to encourage the teaching of advocacy courses by trial practitioners and trial judges, as a method of improving attorney preparedness.

TIME FRAME: Not likely to occur during Project timeframe.

5. Law Schools

Croatian Law Schools' curricula need to be changed to instruct in areas that will prepare law students to become lawyers. With reforms likely to occur soon in the Croatian judicial system, changes in the curricula and teaching methodologies are an important component of reforms, if they are to be successful. Law school curricula need to incorporate new laws and procedures. Many Croatian judges are recent graduates and the skills they acquire in law school are of the utmost importance.

Further, the lack of attorney preparedness affects the administration of justice. There should be more emphasis in Croatia's law schools on trial practice. Trial advocacy courses taught by adjunct professors who practice in the trial courts could be utilized to bring to the students real problems and real solutions. Mentoring programs developed by the Croatian Bar Association could also be utilized. Judges should be empowered and encouraged to appoint mentors as necessary.

Among the most commonly expressed criticisms of Croatian legal education are:

- Law school curricula have not changed to meet the needs of a market economy and an open, democratic society.
- Even where the curricula have been changed, old professors still teaching old doctrines using an out of date magisterial methodology.
- An enormous interest in attending law school and becoming private lawyers has developed, and results in a supply of services which exceeds demand – a contributing factor to attorneys' aggressive refusal to settling cases and to changing the existing fee system which benefits from endless adjournments and appeals.

PROPOSED ACTIVITIES AND TASKS:

In response to these problems:

- The curriculum needs to be updated; the Bar and the judges can make a valuable contribution by encouraging law schools to revise its current courses offerings.
- Practical course work should be added, and younger dynamic professors should be provided with courses in inter-active, adult education techniques including clinical initiatives.
- The academic community's reluctance to change should be addressed through the development of teaching standards and creation academic councils charged with enforcing these standards.
- The GOC should consider establishing limits on law school enrollment.

TIME FRAME: Given a likely and strong resistance to change by academia, the above may not be feasible during the term of the Project.

C. Development of Support for Reforms

1. Public Awareness Campaigns

The Bar should encourage its members to participate in "public awareness" campaigns. As recognized community leaders, attorneys are in a unique position to help improve societal attitudes about the legal system, through public awareness campaigns to promote better understanding of the legal system, for example. These activities not only benefit the community, they also benefit the participating attorneys who have the opportunity to develop and strengthen professional relationships that encourage civility.

This could begin a new era of collaboration between the courts, judicial council, the Croatian Bar Association, and the communities leading to a renewal of public trust and confidence in the administration of justice in Croatia.

PROPOSED ACTIVITIES AND TASKS:

One way to ensure continued community involvement is for the courts to consider initiating, maintaining, and enhancing court community outreach programs. The anticipated benefits could be far-reaching and significant. The following initiatives are recommended. They are

mindful that traditionally the courts have not taken an active role in promoting public information:

- Courthouse Tours (e.g., students, citizens, legislative staff)
- Citizen Guides (brochures on the court system)
- Websites posting information on how the court operates, principal phone numbers and hours open to the public, etc.
- Speakers' Bureaus/Meet Your Judges Forums (a program designed to further public education concerning the role of the judiciary in Croatia)
- School Outreach Efforts
- Media Outreach Efforts
- Public Opinion Surveys
- Volunteer Programs
- Court-Watching Groups (with possible publication)

TIME FRAME: November 2002-August 2003.

2. The News Media

The news media is a lead partner if any "public awareness" campaign is to succeed. The courts and the news media are natural allies - interdependent institutions – and a good relationship between the courts and the public opinion-molding news media is essential to a healthy, independent system of justice. At this time, the relationship between the media and the judiciary tends to be an adversarial one. The recent turnover in leadership – at the Supreme Court and the Ministry of Justice -, the upcoming revisions to the Code of Civil procedures, and donor-sponsored reforms to Commercial and Municipal courts' operations all provide reasons for a new, different dialogue to be initiated between the judicial branch and the media. Another reason to proactively pursue media relations is exemplified by the adage, "reality is what the public perceives it to be."

Given the above realities, the courts need to ensure that media coverage of their courts is accurate, balanced, and portray the courts in a positive light. One newspaper in the United States said that the judiciary is the least understood of the three branches of government, yet it does the least to assist the public and the news media in truly understanding the function of the judicial processes. Opportunities to redress this situation abound in Croatia.

PROPOSED ACTIVITIES AND TASKS:

Judicial leaders who have credibility with the media should be encouraged to hold regular, detailed interviews and explain changes underway and their results. In turn, donor-sponsored civil society programs should aim at providing the media with tools to share accurately and neutrally this technical information to the public. Stories about effective Commercial Courts enforcement should also be shared with professional publications as a means to reassure the business community.

TIME FRAME: November 2002-August 2003.

3. Donors

Donors should coordinate their activities, including initiatives that help improve the effectiveness of enforcement of Croatian courts judgments in general, and Commercial Courts in particular. Initiatives are currently underway and are mutually self-reinforcing. Also, they cut across programmatic divisions, linking Rule of Law, Governance, Economic Growth and Civil Society.

Since reforms underway are likely to remain incremental and labor intensive, and since the GOC will not be able to support these efforts on its own in the medium term, the role of donors will continue to be critical over the next few years.

CONCLUSION

The Republic of Croatia and the Ministry of Justice are addressing the inadequate capacity of the commercial courts to adjudicate cases and enforce judicial decisions. Seen in this light, this report outlines the timeliness to remedy some of the systemic problems that are plaguing the court. Enacting significant court reform on a countrywide basis requires a mechanism to mandate and implement change -- and that can only be accomplished through a more effective court governance system. A governance structure and judicial culture that impede strong leadership, accountability, and responsiveness to stakeholders limit the best efforts of individual judges, including those in leadership positions in the court. The members of the bench and Bar need to better aware of, and act upon the critical need for more effective strategic governance.

Hopefully the ideas and recommendations suggested, while ambitious, will stimulate constructive thought, enhance an understanding of problems and differences among the stakeholders, and help develop a consensus on solutions and priorities for action.

Annex

**USAID CROATIA COMMERCIAL COURT
ENFORCEMENT OF JUDGMENTS PROJECT
DECEMBER 2001**

Enforcement of Judgment Activities:

Documents Review:

1. Booz-Allen & Hamilton: Croatia Commercial Courts Assessment Draft, June 200
2. Croatia Book of Rules
3. Croatia Code of Civil Procedure
4. USAID Statement of Work - Republic of Croatia: Commercial Law Reform Program

Interviews:

Ms. Stanka Andrakovic
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**Attachment 24-1a & 1b:
Brochure—Ten Questions**

ATTACHMENT 24-1A
BROCHURE - TEN QUESTIONS

10

Deset pitanja o medijaciji u gospodarstvu

snizuje troškove
ubrzava postupak
povjerljivost nagodbe
zadovoljstvo stranaka
nastavak poslovanja
neformalnost
kontrola
kreativna rješenja

Kakvu ulogu imaju odvjetnici u medijaciji?

Osim ako su se stranke drugačije dogovorile, stranka ima pravo na zastupnika tijekom medijacije. Stranka često ima želju posavjetovati se prije početka medijacije, tijekom postupka medijacije i prije sklapanja nagodbe postignute medijacijom.

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Tko plaća troškove medijacije?

Stranke najčešće podijele troškove medijacije i medijatora pola-pola, osim ako je sud, vlada ili drugo tijelo besplatno odredilo medijatora.

Koje su osnove uspješne medijacije?

- Započnite s pozitivnim stavom. Započnite medijaciju očekujući da ćete njome postići nagodbu koja će zadovoljiti obje stranke.
- Slušajte drugu stranku i budite fleksibilni u pristupu rješavanju problema.
- Budite realni. Pokušajte izbjeći pretjerane i neosnovane zahtjeve prema drugoj stranci.
- Suradujte s medijatorom i ponašajte se pristojno prema drugoj stranci.
- Smislite inovativna rješenja. Pomaknite se od konfliktne stajališta do zajedničkih interesa.

ATTACHMENT 24-1B BROCHURE - TEN QUESTIONS

Što je medijacija?

Medijacija je povjerljiv i dobrovoljan postupak nagodbe u kojem neutralna treća strana, medijator, radi sa strankama u sporu na postizanju rješenja koje je prihvatljivo svim strankama. Postupak medijacije je dobrovoljan, što znači da bilo koja stranka može prekinuti medijaciju u bilo kojem trenutku prije postizanja krajnje, obvezujuće nagodbe.

Koje su prednosti medijacije?

Postoje mnoge prednosti, ali neke od najznačajnijih su:

- Medijacija je uglavnom jeftinija od sudskog postupka.
- Spor se uglavnom brže rješava medijacijom negoli u

parnici.

- Stranke se postižu rješenja koje je obostrano prihvatljivo.

Stoga obje stranke imaju ulogu u osmišljavanju rješenja svojih problema, umjesto da im takvo rješenje namegne sud, što obično završava pobjedom jedne i gubitkom druge stranke.

- Postupak medijacije nije javan, te se bilo kakva usmena rasprava i bilo koji dokument koji stranke predoče tijekom postupka smatraju tajnim. Bilo koji sporazum

postignut medijacijom se također može držati u tajnosti ukoliko stranke to žele.

- Medijacija omogućava strankama da nastave ili održe poslovni odnos koji im je i prije spora bio od koristi.

Što radi medijator?

Medijator prvo kratko opisuje postupak i dogovorena pravila medijacije. Medijator saslušava stajališta i izjave svake stranke, bez davanja svojeg mišljenja. Medijator pomaže strankama odrediti razloge spora, tako što naglašava interese umjesto pravnih stajališta. Medijator pomaže strankama da prestanu diskutirati o tome tko je u pravu, a tko u krivu i pomaže im razmotriti mogućnosti koje pridonose nagodbi. Medijator će se često sastati sa strankama pojedinačno i svakoj stranci prenijeti prijedloge i ponude za nagodbu druge stranke. Medijator će držati tajnim sve komentare i izjave koje daju stranke u odvojenim sastancima, osim ako ga stranke ne upute drukčije. Ukoliko stranke postignu nagodbu, medijator će im pomoći da sastave uvjete nagodbe na osnovu kojih bi sastavili pismenu nagodbu koju bi obje stranke potpisale.

Za kakvu se vrstu spora može provesti medijacija?

Općenito, bilo koji spor koji može završiti nagodbom je pogodan za medijaciju.



Kako stranka spora može pokrenuti medijaciju?

Ukoliko želite iskušati medijaciju, kontaktirajte instituciju koja pruža usluge medijacije. Ova će institucija pokušati postići suglasnost svih stranaka koje bi trebale sudjelovati u medijaciji. Ukoliko druga stranka pristane na medijaciju, stranke će odabrati određenog medijatora, sukladno pravilima institucije. Nakon usuglašavanja o korištenju medijacije, stranke potpisuju sporazum o medijaciji kojim se određuju uvjeti i pravila postupka.

Ukoliko stranka započne medijaciju, je li ona obvezna postići nagodbu?

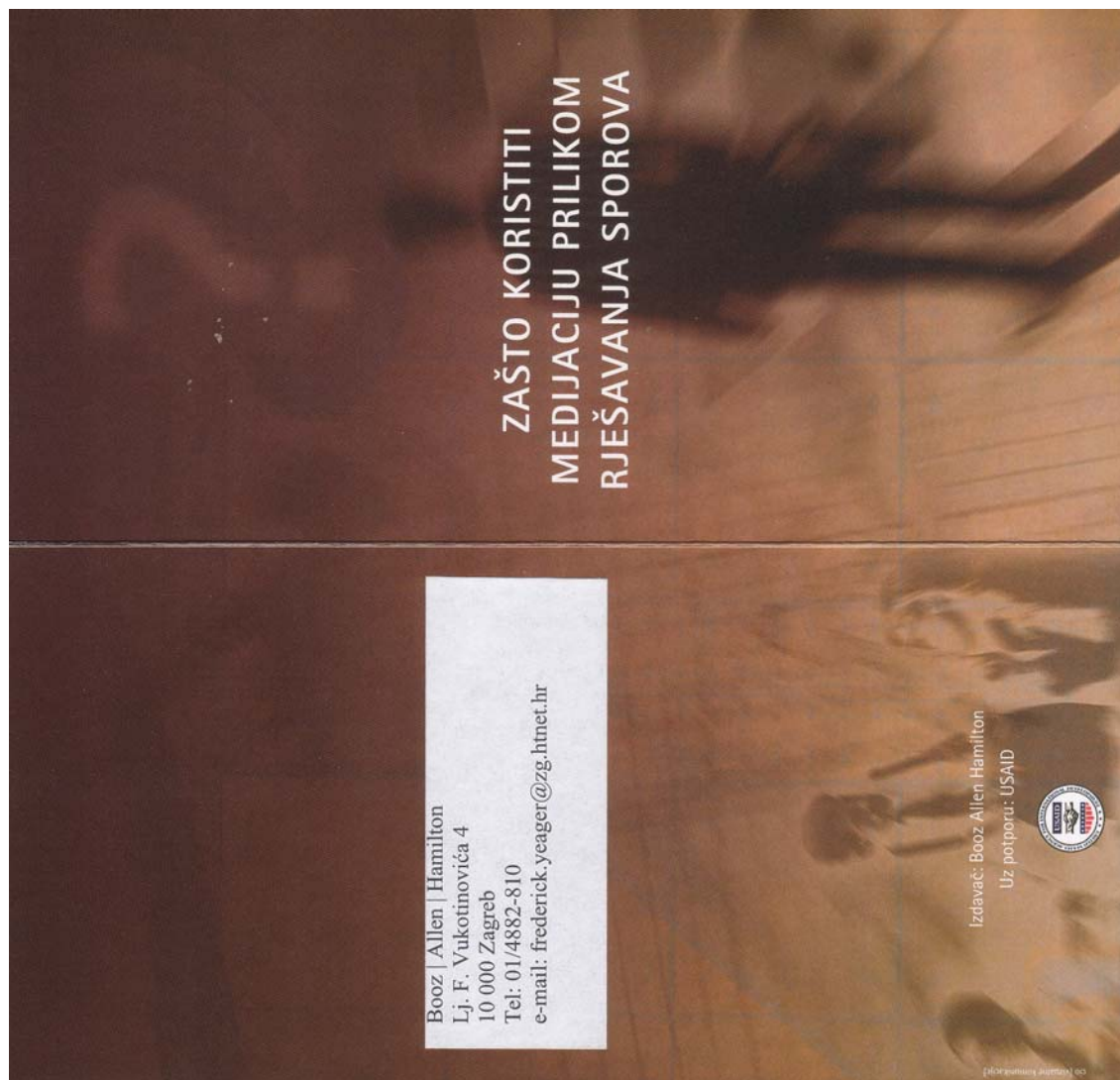
Stranke u medijaciji nisu obvezne postići nagodbu. Stranke u medijaciji mogu postići nagodbu o svim, samo nekim ili niti jednom spornom pitanju.

Koliko traje medijacija?

Medijacija može trajati različito, ovisno o sporu i njegovoj složenosti. U jednostavnim sporovima medijacija može trajati samo jedan sastanak, s rješenjem za sat ili dva. Ipak, većina gospodarskih sporova traje duže.

**Attachment 24-2a & 2b:
Brochure—Why Mediate?**

**ATTACHMENT 24-2A
BROCHURE – WHY MEDIATE?**



ATTACHMENT 24-2B BROCHURE - WHY MEDIATE?



**Attachment 24-3a & 3b:
Brochure—Mediate/Litigate**

ATTACHMENT 24-3A
BROCHURE – MEDITATE/LITIGATE

Da li sam u sporu s:

Klijentom?

Dobavljačem?

Poslovnim partnerom ?

Zajmodavcem ?

Zajmoprimcem?

Ugovarateljem?



Savjetnikom?

Razmislite o medijaciji!

Medijacija?

Parnica?

Izdavač: Booz Allen Hamilton
Uz potporu: USAID



ATTACHMENT 24-3B
BROCHURE – MEDIATE/LITIGATE



**Attachment 25-1:
Report on Training Survey for
Commercial Courts of Croatia**

ATTACHMENT 25-1

REPORT on TRAINING SURVEY for COMMERCIAL COURTS OF CROATIA

Judicial training is generally viewed as a very important part of judicial activities and judges and others consider that a good judicial training program contributes significantly to developing and maintaining a strong, independent judiciary.

For any judicial training programs are to meet its objectives, it must meet the needs of the judiciary and support the development of the judiciary. For that reason it is important to determine, in a systematic way, the attitudes and opinions of judges about the training that they need and want.

I. BACKGROUND

The Training Needs Survey was handed out to the 160 Commercial Court judges attending the 4th Conference of Commercial Court Judges. Forty-five judges or approximately 28% of those attending the Conference completed and returned the survey. A copy of the Survey is attached as Exhibit 1.

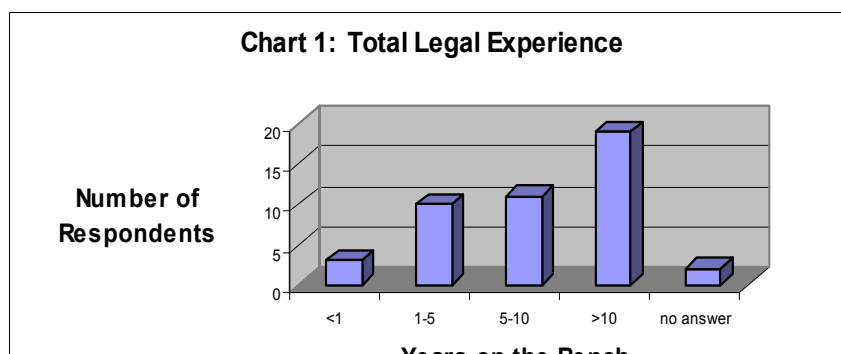
The first two questions of the Survey dealt with judicial and legal experience. The judicial experience of the responding judges is shown in the following table.

TABLE 1: Years on the Bench

Number of Years On the Bench	Number Responding	Percentage of Respondents
Less than 1 year	0	0
1 to 5 years	14	31 %
5 to 10 years	12	27 %
More than ten years	19	42 %
Total		100 %

As the figures show, the responding judges are fairly evenly distributed between the three levels of experience.

In many cases it is not just the years on the bench that reflects legal knowledge but also the total years of experience as both a judge and a lawyer. Defining experience as both years on the bench and as a lawyer, the total experience is fairly even for the three groups. Chart 2 correlates experience as judge and lawyer.



II. TOPICS FOR JUDICIAL TRAINING

Two of the questions on the survey were designed to get the opinion of the respondents on topics in which they, the responding judges, believed there was need for training. Or put another way, of the listed topics for training, which topics had the highest priority. The question required the responding judge to assign a number, i.e., points, which reflected the judge's opinion. That allowed us to assign a value to each response and then to take an average point value. The closer the average value approached the value 6, the more important is training in that area.

The following Table 2 shows the response by the judges.

TABLE 2: TOPICS FOR TRAINING

LEGAL TOPICS FOR TRAINING	1	2	3	4	5	6	no answer
Bankruptcy	0	1	0	4	8	31	1
Company Law	0	0	1	5	10	28	1
Securities	0	0	3	6	14	18	4
Contracts	0	3	3	8	10	20	1
Property Law	0	2	3	6	16	11	7
Banking	1	5	7	7	12	10	3
Privatization	1	4	5	15	6	9	5
Pledges of Movable Property	0	4	6	15	8	6	6
Investment	0	3	12	10	10	6	4
Franchise	1	3	9	11	11	3	7
Copyright and Trademark	3	5	6	10	6	7	8
Enforcement of Foreign Judgments	1	4	10	18	5	2	5
Electronic signatures	5	6	9	9	4	7	5
Arbitration	1	6	17	11	3	4	3
Note: Numbers represent the number of responses For that preference, i.e., actual count							

Table 2 shows without question that the responding judges' believe that training is needed in bankruptcy, company law and securities. Contracts, property law and banking also have strong support for training. A graphic presentation of all responses is shown in Exhibit 2.

The interesting question is the impact that years of experience has on the preference for topics for training. Charts 2, 3 and 4 in Exhibit 3 correlates the years of experience with the preference for each of the top three topics, i.e., bankruptcy, company law and securities. We calculated preference by using a weighted average.¹ Judicial experience, i.e., years on the bench, seems to have little impact on the first three choices for training. However, the judges with fewer than 10 years on the bench appeared to have a stronger preference training in contracts law than did judges on the bench for more than 10 years. See Chart 6 in Exhibit 3.

¹ The respondents were asked to respond by marking a number between 1 and 6. We treated these marked numbers as points and took a weighted average, i.e., point times the number of respondents for that point. Then summed for all number 1 through 6 and divided by the number of respondents.

A skilled and professional judiciary must, of course, know and apply the law. The above table and its related question were designed to get the opinions of commercial court judges on law topics for training. Table 3 addresses a variety of topics some of which are not technically legal. Judicial training in areas other than legal is not uncommon. In addition to knowing and applying the law, a judge must often use and apply skills and knowledge from other areas. These related areas allow a judge to more effectively and efficiently perform his or her judicial duties.

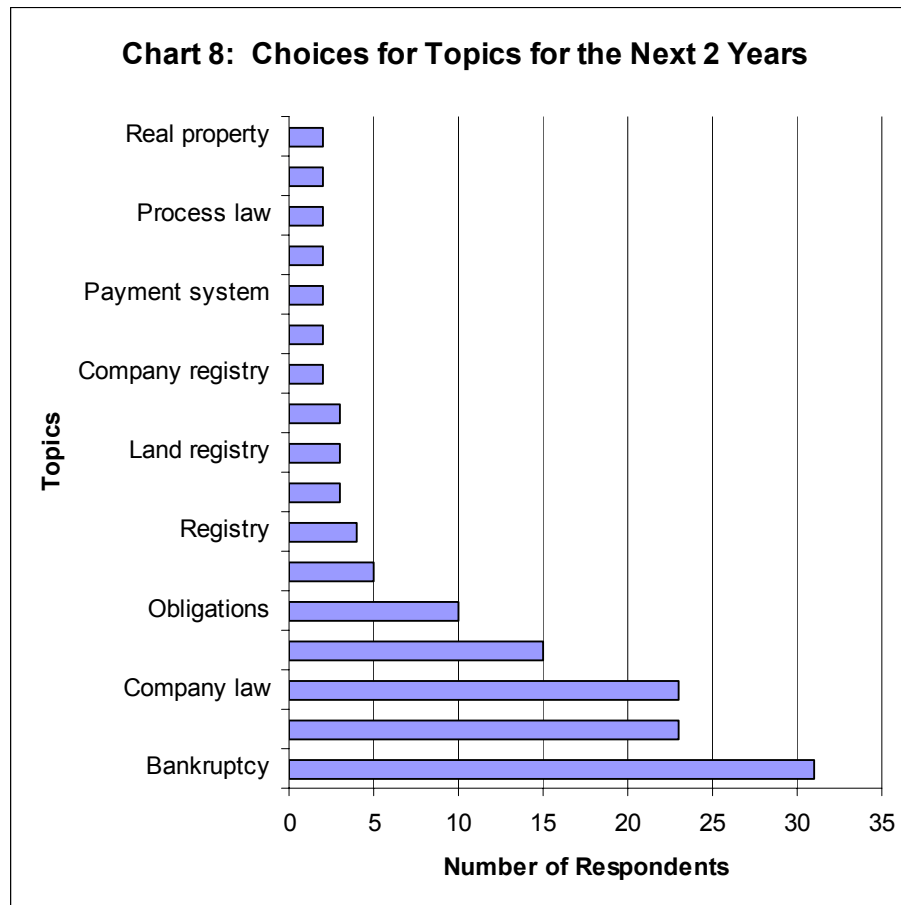
As Table 3 shows the responding judges overwhelmingly supported training in the first two topics, Word Processing and computer Training and legal Research using the Internet. This should be not a surprise as judges have often made verbal statements supporting computer and computer related training. As the table shows, judges also strongly supported training in the next three topics, Use of Sanctions for Attorney Misconduct, Writing Judicial Opinions and Reducing Delays.

TABLE 3: Other Areas of Training

OTHER TOPICS FOR TRAINING	1	2	3	4	5	6	no answer
Word Processing and Computer Training	0	1	6	1	5	25	7
Legal Research using the Internet	0	2	2	6	9	22	4
Use of Sanctions for Attorney Misconduct	0	2	6	5	14	14	4
Writing Judicial Opinions	1	0	6	12	6	14	6
Reducing Delays	1	5	4	9	7	14	5
Early Settlement of Claims	1	1	4	15	8	8	8
Role of Judges in a Market Economy	1	3	13	7	2	12	7
Time Management	6	2	5	8	11	4	9
Arbitration	3	1	14	12	4	4	7
Case Management	1	5	15	7	8	2	7
Budgeting	3	5	13	10	4	4	6
Staff Management	5	3	11	10	10	0	6
Preparing an Appeal	4	7	8	8	5	3	10

We have also considered the impact that judicial experience might have had on the first two preferred choices, Word Processing and Computer Training and Legal Research using the Internet. Judges with less than 5 years on the bench seemed to have less of a preference for computer related training or at least the seemed to put it one rank below that given by judges with more years on the bench. Charts 5 and 6 in Exhibit 2 show the results of a comparison of experience and preference for training.

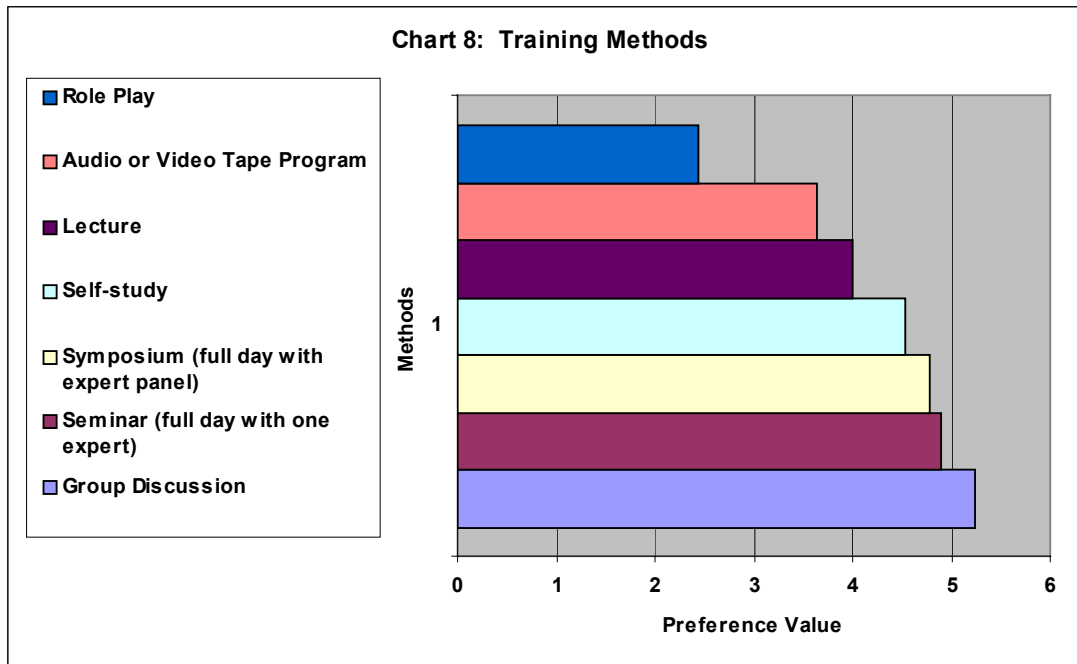
Training is not static and it should changes as the type of cases coming before the court change. It is, of course, difficult to predict what the future will bring. However, Question 15 of the survey asked the judges to chose 5 areas of training that would be important for the next two years. Chart 8 below is a summary of those responses. Making a rather arbitrary decisions, we limited the topics in Chart 8 to those topics which at least two judges had chosen as revelant in the next two years.



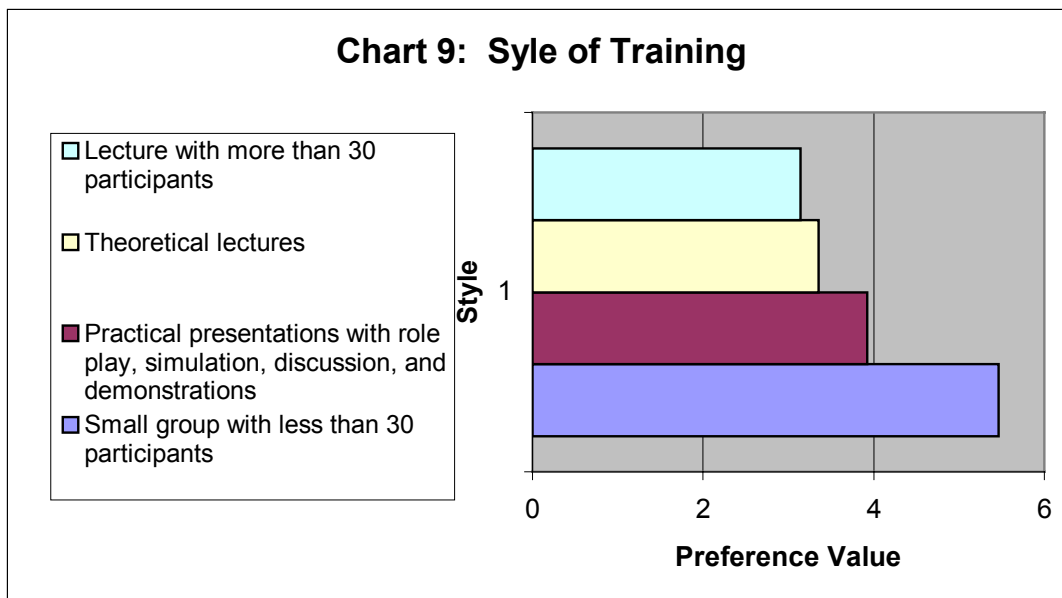
When designing a training program the selection of topics is only one of several important decisions to be made. The training designer must also consider the methodology, i.e., group discussion, lecture, role play and others. When deciding on methodology, the training designer must give careful consideration to the training objective and the background of the participants. For example, if the goal is to give as much information as possible on new legislation which must be implemented in a large number of cases, then a seminar or lecture methodology may be most useful. However, if the goal of training is to improve skills such as understanding a trustee's financial statements, then small group discussion would probably be preferred. The training designer must also evaluate the trainer's knowledge of the topic, the trainer's ability to motivate the participants and the trainer's knowledge of and use of techniques such as slides, blackboards, etc.

Survey questions 7, 8 and 9 asked for the respondents opinion on methodology, style of training and trainers. In order to analyze the responses to these three questions, we used a weighted average.

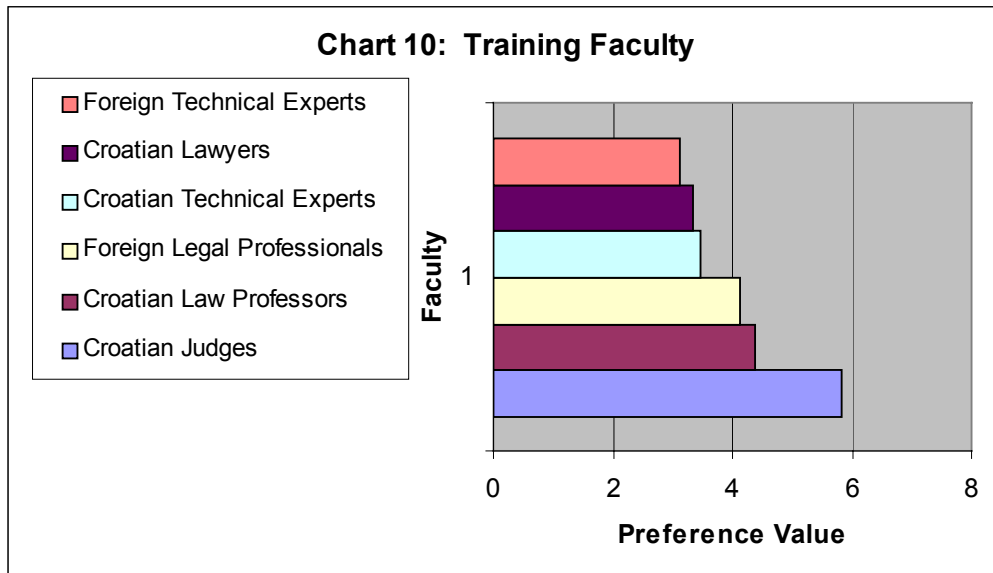
As Chart 8 shows group discusses if the preferred method. As the Table in Exhibit ? shows, 35 of the 43 judges who responded had a high preference for group discussion. Thirty of the 41 responding judges chose seminar as the next highest preference.



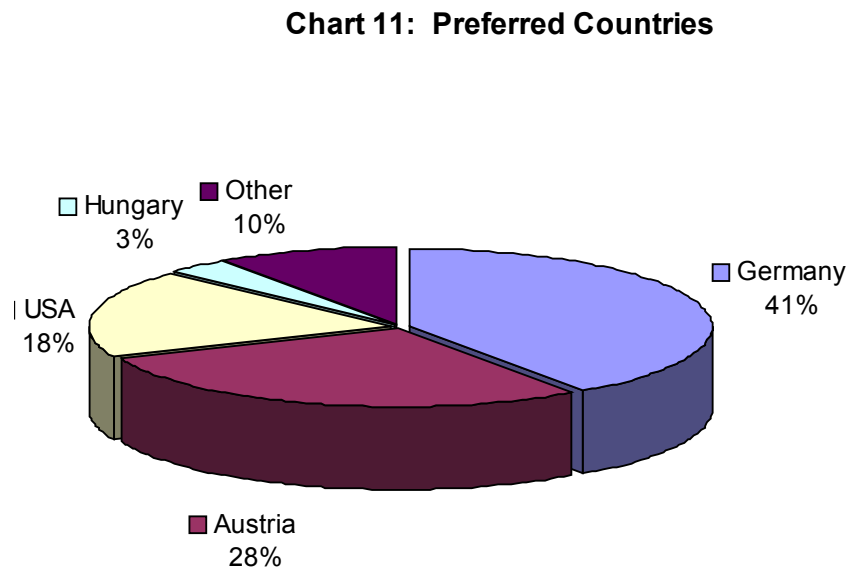
As Chart 9 shows the overwhelming choice for the style of training is small group discussion with less than 30 participants.



All 44 judges responding to the question on preferred faculty preferred Croatian judges as trainers. The second choice was Croatian law professors and the third choice was foreign legal experts. Chart 10 below shows the judges' preferences for the different types of trainers.



When considering foreign trainers, the choice of the foreigner trainer's country of residence will more likely than not dictate or at least limit the choices. Question 10 of the survey asked for the responding judges identify the most relevant countries from which to select trainers. Chart 11 shows their choices.



The following Table 4 shows the top three topics in order of preference and the countries chosen by the judges as the preferred countries from which to select trainers.

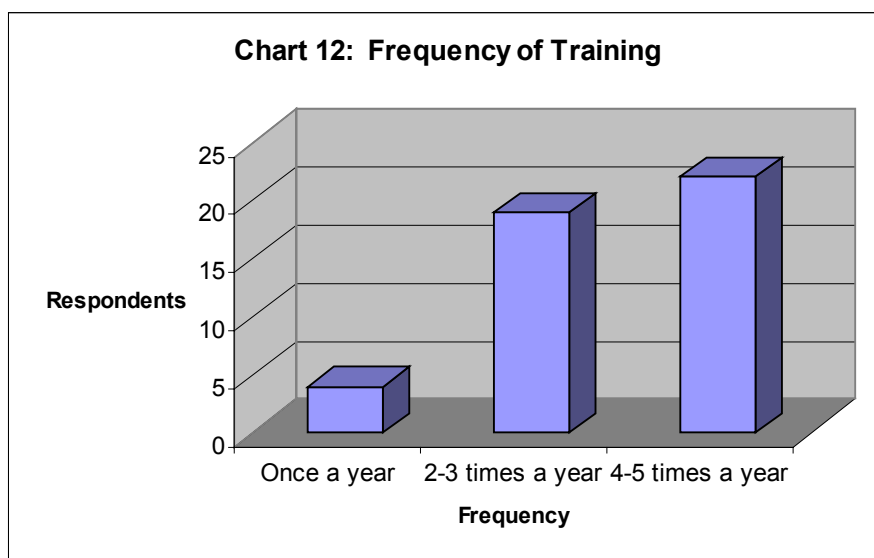
Table 4: Preferred Topics From Preferred Countries

Country	Topic
Germany	Bankruptcy
Germany	Company law
Germany	Execution
Austria	Company law
Austria	Bankruptcy
Austria	Obligations
USA	Bankruptcy
USA	Informatization
USA	Company law
Hungary	Company law
Hungary	Bankruptcy

It is interesting to compare Table 3 with Table 1 in Section 1. Table 1 gives bankruptcy and company law as the top choices for training and the chosen topics from the preferred countries for training by foreign trainers is bankruptcy and company law. The exception to that is informatization training which was the second choice for trainers from the United States.

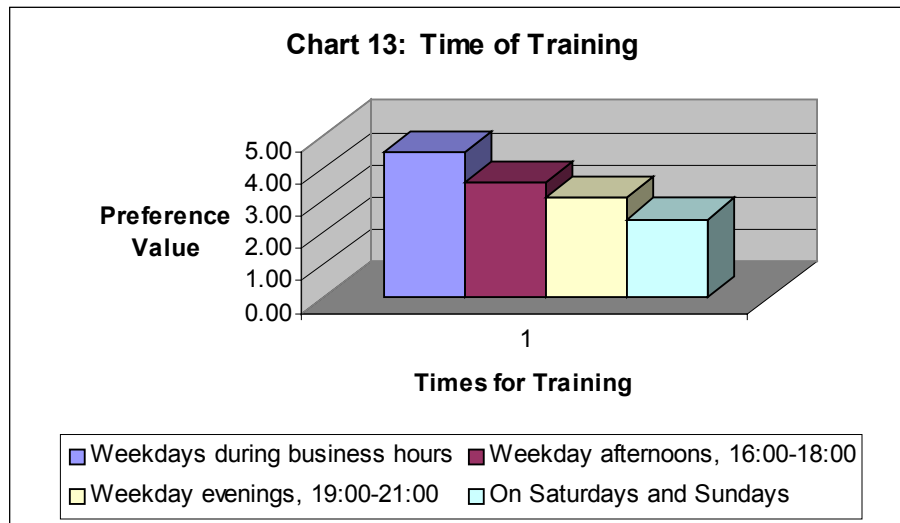
IV. FREQUENCY AND DURATION OF TRAINING

Effective judicial training which supports and extends judicial knowledge and skills is a planned, on-going activity that must be integrated with the workload and activities of the judges. When scheduling training the training designer should consider judicial workloads, ad hoc programs by other organizations which may be of interest to judges and cultural preferences. Chart 12 shows that the choices for to 4-5 times and 2-3 times per year are fairly close with 22 of the respondents preferring 4-5 times a years and 19 chosing 2-3 times. One factor affecting frequency which the survey did not address is the location of training. If participants have to travel some distance to attend training programs, one would expect that they would prefer fewer events of longer duration.



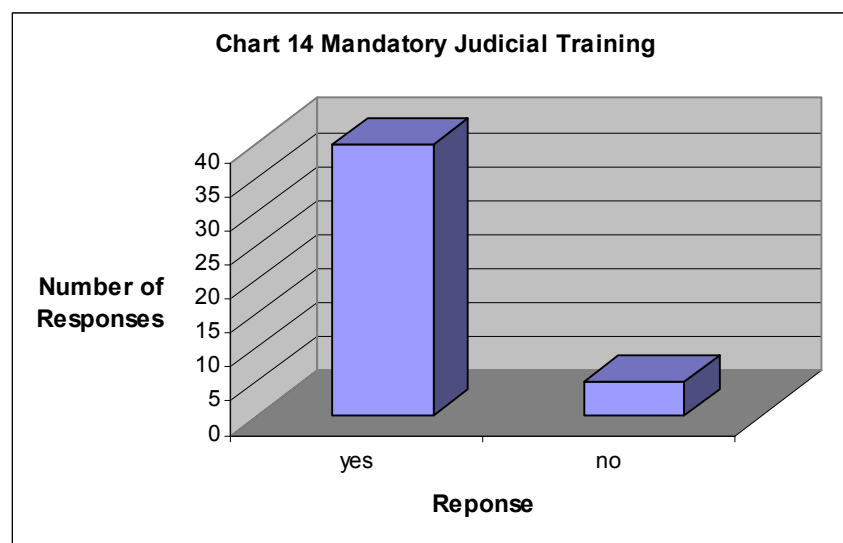
Question 13 of the survey asked about the preferred time for training. A fairly large number of the judges returning the survey did not answer Question 13 and about half of the judges returning the

survey did not give a preference for training during evenings or weekends. In order to evaluate the responses, we used a weighted average (See Footnote 1). Based on the responses, it is reasonably to say that as Chart 13 below shows, the preference is for either weekdays or weekday afternoons.



One of the issues frequently discussed by many judges throughout the more developed judicial systems is mandatory judicial training and the amount of training that will be required to satisfy the mandatory judicial training requirement. Question 16 addressed this issues with the question: “Would you support a requirement that all judges must attend at least one training course each year in order to receive promotions or increased benefits?”

Chart 14 below shows that a large majority of judges support a requirement for training in order to received promotions or other benefits



Training events provides more than just judicial training in an education setting. It is often a setting in which training participants share experiences and ideas outside of the classroom. Frequently training with participants from other members of the legal system is beneficial because it gives judges an opportunity to learn about changes in procedures and society that will soon be coming before

them in their court rooms. Question 14 focused on the sharing of training events and Table 5 shows the responses.

Table 5

Question: Would you be interested in attending joint training events for mutually relevant subjects with:

	Yes	No
Lawyers	17	16
Judges from other courts	44	1
Staff from their court	15	17

V. CONCLUSIONS

It should certainly come as no surprise to anyone reading this survey that the preferred topics for training are bankruptcy, company law, training on the computer and training in internet legal research. Perhaps more interesting is the fact that regardless of the number of years on the bench, the responses were similar. However, if one considers that time spent practicing law contributes significantly to understanding legal issues and court procedures, then it is not so surprising since many of the judges with less than 5 years on the bench have had experience as practicing lawyers.

However, there is often value to establishing in a more systematic way those ideas or opinions that we often assume to be true. If this survey did in fact merely confirm many preconceived opinions or ideas than it has value for having done that. If it highlighted for some judges and other readers a few areas about which they were uncertain or had no opinion or information, then the survey has served a double purpose.

Exhibit 1

TRAINING NEEDS SURVEY Commercial Courts of Croatia

In the past 10 years, Croatia has initiated fundamental changes in the commercial legal framework and even the Commercial Courts. Numerous new laws based on market-oriented European models have replaced laws and regulations from the socialist-era, and even the role of judges and functions of courts has changed. Many Croatian judges feel that additional training, information, and materials are needed in order to keep up with the changes. The purpose of this survey is to determine what you, as an acting judge, believe would be most beneficial for you and for the Commercial Courts in terms of future training so that a training program can be designed to meet your needs.

Your Background

1. How many years have you been a judge? ☐ < 1 ☐ 1-5 ☐ 5-10 ☐ >10
2. How many years did you practice law before becoming a judge? ☐ < 1 ☐ 1-5 ☐ 5-10 ☐ >10

Topics for Judicial Training

For these questions, circle the number that best represents your opinion, where 1 is the lowest score and 6 is the highest.

3. How much do you feel that judges need training or additional information in each of following areas of law:

No
Need

Moderate
Need

High
Need

4.

Arbitration	1	2	3	4	5	6
Banking	1	2	3	4	5	6
Bankruptcy	1	2	3	4	5	6
Contracts	1	2	3	4	5	6
Company Law	1	2	3	4	5	6
Copyright and Trademark	1	2	3	4	5	6
Electronic signatures	1	2	3	4	5	6
Enforcement of Foreign Judgments	1	2	3	4	5	6
Franchise	1	2	3	4	5	6
Investment	1	2	3	4	5	6
Pledges of Movable Property	1	2	3	4	5	6
Privatization	1	2	3	4	5	6
Property Law	1	2	3	4	5	6
Securities	1	2	3	4	5	6

Please list any other topics of law that you feel are important: _____

5. How much do you feel that judges need training or additional information in each of following areas:

No
Need

Moderate
Need

High
Need

6.

Arbitration	1	2	3	4	5	6
Budgeting	1	2	3	4	5	6
Case Management	1	2	3	4	5	6
Early Settlement of Claims	1	2	3	4	5	6
Legal Research using the Internet	1	2	3	4	5	6
Preparing an Appeal	1	2	3	4	5	6
Reducing Delays	1	2	3	4	5	6
Role of Judges in a Market Economy	1	2	3	4	5	6
Staff Management	1	2	3	4	5	6
Time Management	1	2	3	4	5	6
Use of Sanctions for Attorney Misconduct	1	2	3	4	5	6
Word Processing and Computer Training	1	2	3	4	5	6
Writing Judicial Opinions	1	2	3	4	5	6

Please list any other administrative and management courses that you feel are important: _____

Training Methods and Training Providers

7. Which methods of training do you prefer?

Low
Preference

High
Preference

8.

Audio or Video Tape Program	1	2	3	4	5	6
Group Discussion	1	2	3	4	5	6
Lecture	1	2	3	4	5	6
Role Play	1	2	3	4	5	6
Self-study	1	2	3	4	5	6
Seminar (full day with one expert)	1	2	3	4	5	6
Symposium (full day with expert panel)	1	2	3	4	5	6
Other: _____	1	2	3	4	5	6

Which style of training do you prefer?

Low
Preference

High
Preference

Lecture with more than 30 participants	1	2	3	4	5	6
Small group with less than 30 participants	1	2	3	4	5	6
Theoretical lectures	1	2	3	4	5	6
Practical presentations with role play, simulation, discussion, and demonstrations	1	2	3	4	5	6
Other: _____	1	2	3	4	5	6

9. Which of the following types of faculty do you prefer for training courses?

Low
Preference

High
Preference

10.

Croatian Law Professors	1	2	3	4	5	6
Croatian Judges	1	2	3	4	5	6
Croatian Lawyers	1	2	3	4	5	6
Croatian Technical Experts	1	2	3	4	5	6
Foreign Legal Professionals	1	2	3	4	5	6
Foreign Technical Experts	1	2	3	4	5	6
Other: _____	1	2	3	4	5	6

For

foreign faculty or trainers, list the three countries you believe would provide the most relevant experts. Feel free to also state what topics are most relevant from each, for example, Germany – Bankruptcy and Company Law.

Country 1: _____ Topics: _____

Country 2: _____ Topics: _____

Country 3: _____ Topics: _____

11. Are there any organizations that you would recommend as training providers? If so, please provide the name and training topics.

Organization: _____ Topics: _____

Organization: _____ Topics: _____

Organization: _____ Topics: _____

Frequency and Length of Training Events

12. How often would you be willing to participate in a training event?

_____ once each year

_____ 2-3 times per year

_____ 4-5 times per year

13. When do prefer to attend training programs? Low Preference High Preference

14.	Weekdays during business hours	1	2	3	4	5	6
	Weekday afternoons, 16:00-18:00	1	2	3	4	5	6
	Weekday evenings, 19:00-21:00	1	2	3	4	5	6
	On Saturdays and Sundays	1	2	3	4	5	6
	Other: _____	1	2	3	4	5	6

Would you be interested in attending joint training events for mutually relevant subjects with:

Lawyers _____ Yes _____ No

Judges from other courts _____ Yes _____ No

Staff from your court _____ Yes _____ No

Other Issues

15. Please list up to five areas of training that you think are most important for judges in the next two years:

1. _____ 2. _____

3. _____ 4. _____

5. _____

16. Would you be support a requirement that all judges must attend at least one training course each year in order to receive promotions or increased benefits?

_____ Yes _____ No

16. Please provide any other comments or considerations you feel are important in devising a training program for judges: _____

EXHIBIT 2

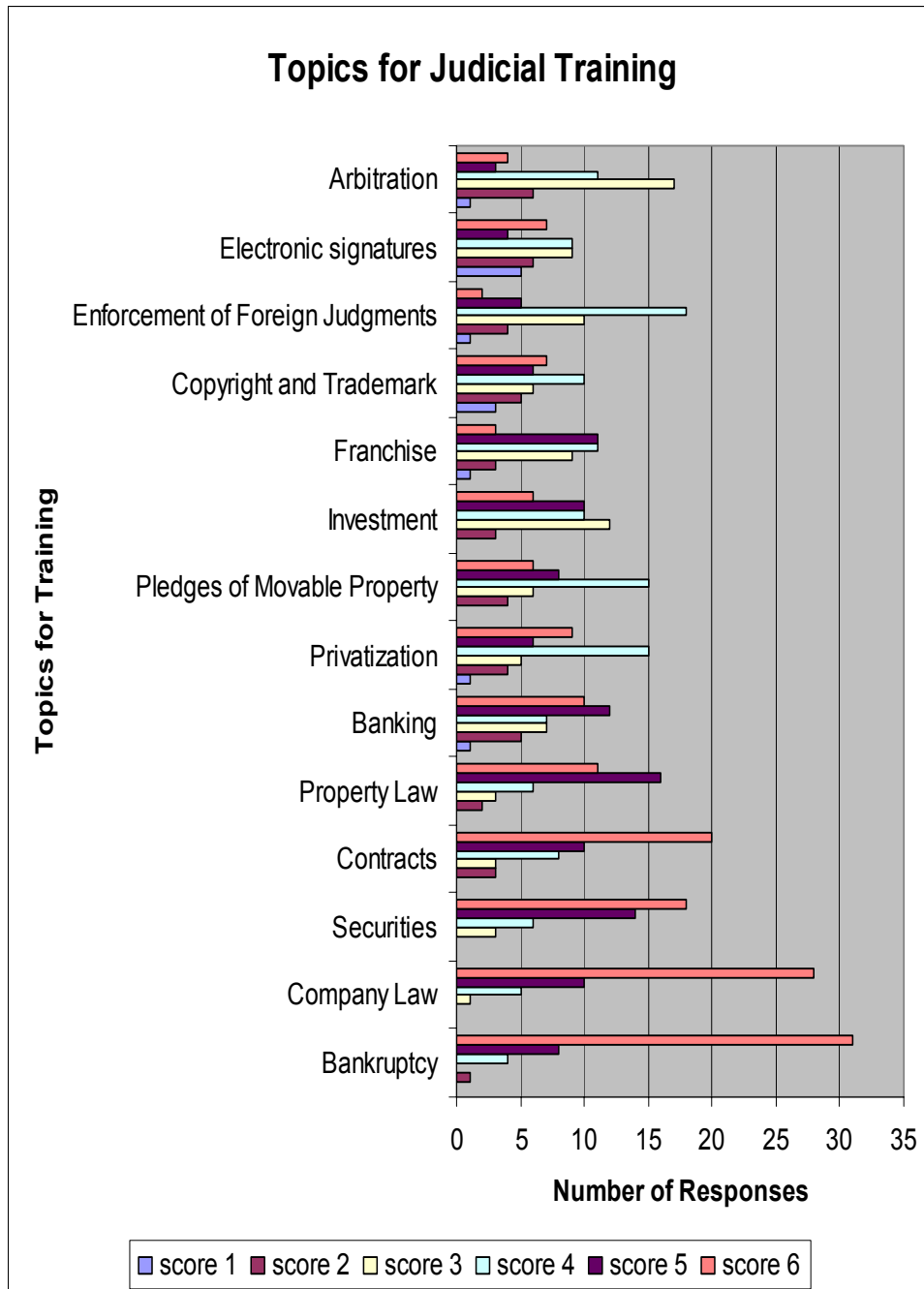


EXHIBIT 3

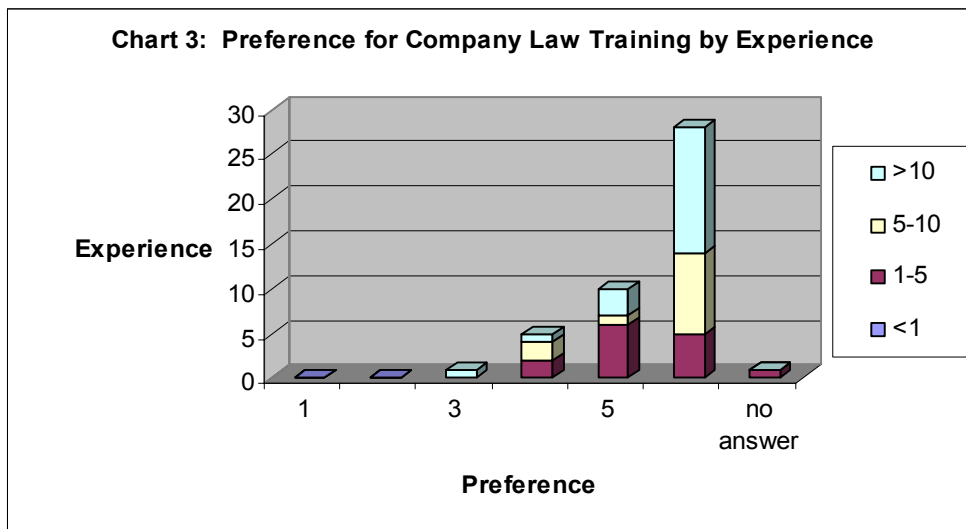
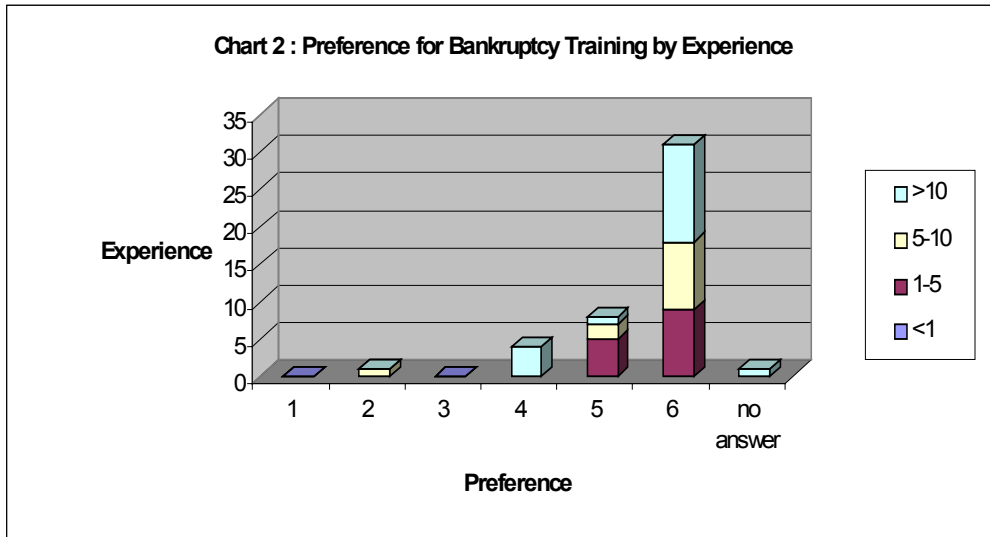


Chart 4: Preference for Securities Training by Experience

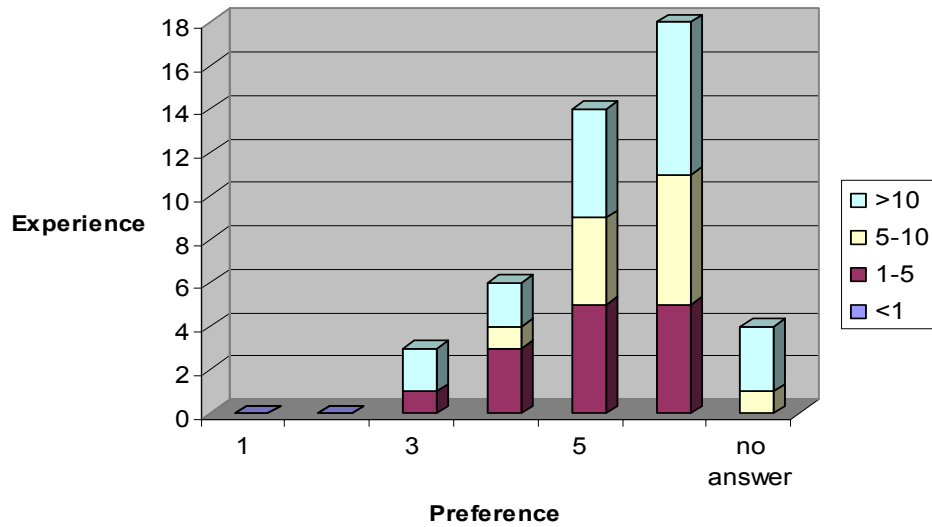


Chart 5: Preference for Contracts Training by Experience

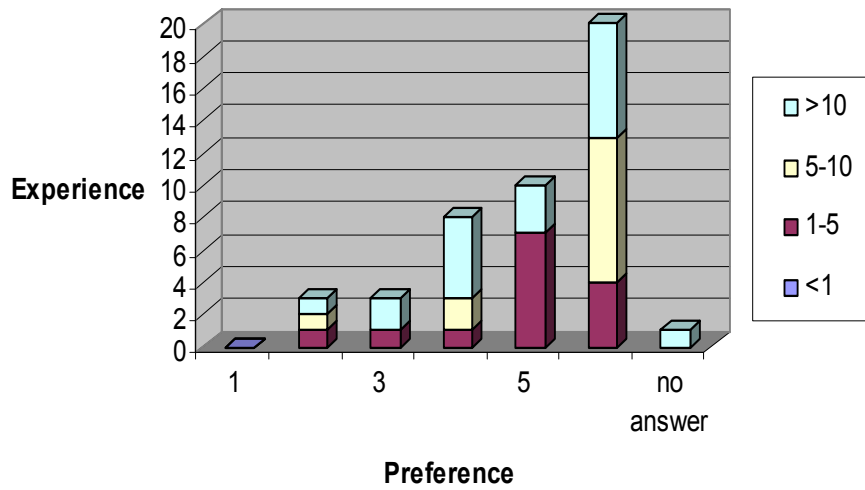
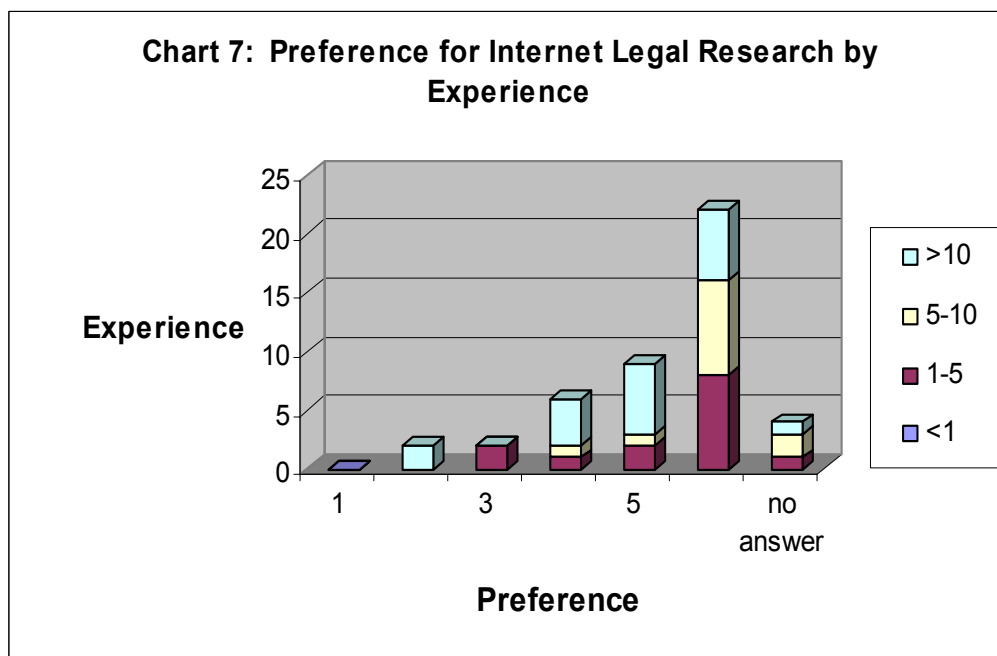
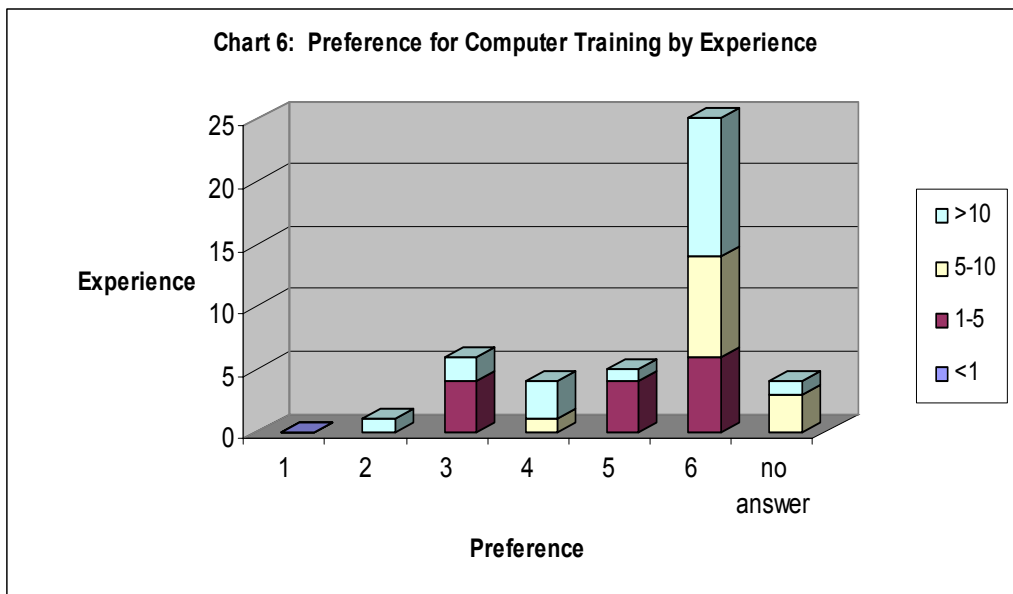


EXHIBIT 4



Attachment 25-2: Proposed Training Plan

ATTACHMENT 25-2

PROPOSED TRAINING PLAN

1. Subjects:
 - A. Customer Service
 - B. Principles of Court Administration
 - C. Budgeting
 - D. Filing & Records Management
 - E. Computer Basics
 - F. Time Management
 - G. Opinion Writing
2. Customer Service:
 - A. Training Objectives: To teach the skills and techniques for courteously and efficiently serving individuals coming to the courts. To teach judges and staff the methods of efficiently serving the public so that the user has a positive image of the court and better appreciation for the judiciary.
 - B. People trained: (1) judges (2) court staff dealing with the public
 - C. Courts: High Commercial Court, each of the lower commercial courts and Land Registry Office in Zagreb
4. Principles of Court Administration
 - A. Training Objectives: To teach staff and judges the underlying principles of court administration such as budgeting, financial management and human resource management
 - B. People Trained: (1) Court Presidents, (2) judges (3) relevant court staff
 - C. Courts: High Commercial Court and each of the lower commercial courts
5. Budgeting:
 - A. Training Objectives: To teach the courts and staff how to manage finances and prepare and comply with budgets so that they better understand how to manage scarce resources.
 - B. People Trained: Court Presidents and staff working in the accounting/finance departments
 - C. Courts: High Commercial Court and lower commercial courts
6. Filing and Records Management:
 - A. Training Objectives: To teach staff and judges the necessary principles and skills for managing documents, filing and retrieving information and archiving.
 - B. People Trained: Court Presidents, judges and relevant staff
 - C. Courts: High Commercial Court and lower commercial courts
7. Computer Basics:
 - A. Training Objectives: To teach staff and judges basic computer knowledge including, word-processing, spreadsheets, computer research in databases and e-mail and Internet skills
 - B. People Trained: Judges and relevant staff
 - C. Courts: High Commercial Court and lower commercial courts
8. Time Management:
 - A. Training Objectives: To teach judges and staff time management for the purpose of teaching them to more efficiently manage time with the goal of reducing case backlog and improving efficiency.
 - B. People Trained: Judges and relevant staff
 - C. Courts: High Commercial Court, lower commercial courts and Land Registry in Zagreb

9. Opinion Writing:
 - A. Training Objectives: To teach judges the principles of opinion writing and the related skills such as research, including computer research. This will improve the quality of opinions written, encourage publishing written opinions and provide court presidents tool for measuring abilities of judges in their courts.
 - B. People Trained: Court Presidents and judges
 - C. Courts: High Commercial Court and lower commercial courts
1. Preferable length of training would be 1 day and not to exceed 2 days.
2. Training would be arranged for (1) individual courts or (2) regional. For example, Zagreb would probably be trained in Zagreb. Split training might include the Dubrovnik Court. Factors to consider would be number of judges, travel time, etc.
3. Most efficient use of the instructor would indicate that the instructor should travel to the court or region with a travel day between each teaching assignment. Example: day 1 training in Split, day 2 travel, day 3 training in Rijeka.
3. Prior to committing to the instructor, he/she must submit to BAH-Zagreb an agenda or schedule for training covering in detail the topics for training and estimated time.
4. Prior to getting on the airplane to travel to Zagreb, the instructor must submit to BAH-Zagreb a Powerpoint Presentation, written class materials and a manual covering the topic and which will be available for reference and follow-up by the judges and courts.

Attachment 26:
Commercial Court in Rijeka

ATTACHMENT 26

Judge computer training program divided into categories

COMPUTER TRAINING Commercial Court in Rijeka

CATEGORY	Program	Theme	School hours
Judges – advanced	Windows	▪ Windows Explorer – handling files and folders (recapitulation)	2
		▪ Shortcuts, Recycle bin	2
		▪ Maintenance programs and antivirus programs	2
	Word	▪ Text formatting (recapitulation)	2
		▪ Advanced text formatting	2
		▪ Working with fields	2
		▪ Creating forms	3
	Internet	▪ Tables	2
		▪ Graphs	1
		▪ Searching and storing information from the Internet	1
Judges – beginners	Windows	▪ Email	1
		▪ Desktop and taskbar	2
		▪ Creating files and folders	1
		▪ Organizing memory space	1
		▪ Windows explorer – moving, copying and deleting	2
		▪ Shortcuts, Recycle bin	2
		▪ Protection and computer maintenance	2
	Word	▪ Basic entry and formatting	4
		▪ Advanced formatting	2
		▪ Creating forms	4
Staff – advanced	Internet	▪ Creating tables and graphs	4
		▪ Searching the Internet	1
		▪ Working with email	1
Staff – user	Windows	▪ Windows explorer (recapitulation)	2
		▪ Organizing memory space	2
		▪ Shortcuts and Recycle bin	2
	Word	▪ Advanced formatting (recapitulation)	2
		▪ Working with fields and forms	4
		▪ Tables and graphs	2
Staff – beginner	Windows	▪ Manipulating files and folders	2
		▪ Windows explorer	2
		▪ Shortcuts and Recycle bin	2
	Word	▪ Text formatting	2
		▪ Advanced text formatting	2
		▪ Creating forms	4
	Tables and graphs	▪ Tables and graphs	2

Astoria d.o.o. Rijeka

**Attachment 27:
Split Computer Training for
Judges**

ATTACHMENT 27
SPLIT COMPUTER TRAINING FOR JUDGES

Split, Ulica bana Jelačića 6/I
Tel: 021/361-333
Fax: 021/362-333
E-mail: ibci-skola@st.hinet.hr

Split, 17 february 2003

Booz Allen Hamilton

Lj. F. Vukotinovića 4, Zagreb
Tel: 01/4882822
Fax: 01/4813090

RE: **Training program**

Dear Sirs,

we have adapted the training program to suit the work that the staff will be doing on computers, as well as the pre-knowledge and motoric abilities of the Commercial Court staff. The adaptation was done after questioning the Split Commercial Court staff.

The students were divided into two groups:

- ☐ Judges (14 students) and court advisors(4 students) – total 18 students
- ☐ Staff– 53 students

(the information on the number of students was got from the Split Commercial Court)
Judges and Court Advisors shall learn MS Windows, MS Word and Internet, and staff MS Windows and MS Word.

According to their pre-knowledge and motoric abilities they are divided into four groups:

1. Students with pre-knowledge and good motoric abilities
2. Students with pre-knowledge and bad motoric abilities
3. Students without pre-knowledge and good motoric abilities
4. Students without pre-knowledge and bad motoric abilities

For students from the first group we plan 20 school hours of training

For students from the second and third group we plan 24 school hours of training

For students from the fourth group we plan 28 school hours of training

Note: For judges and court advisors we plan an additional 8 hours of Internet

With respect

Odisej Mišura
IBCI School

Staff			
	number of students	number of school hours	Total school hours
Students with pre-knowledge and good motoric abilities	17	20	340
Students with pre-knowledge and bad motoric abilities	9	24	216
Students without pre-knowledge and good motoric abilities	12	24	288
Students without pre-knowledge and bad motoric abilities	15	28	420
Total:	53		1264

Judges and Court Advisors			
	number of students	number of school hours	Total school hours
Students with pre-knowledge and good motoric abilities			
Students with pre-knowledge and bad motoric abilities	7	32 (24 + 8)	224
Students without pre-knowledge and good motoric abilities			
Students without pre-knowledge and bad motoric abilities	11	36 (28 + 8)	396
Total:	18		620

	total students	total school hours
staff	53	1264
Judges and Court Advisors	18	620
Ukupno:	71	1884

For the total of 71 students we envisage 1884 school hours.

Windows 98

- About the computer
- Working with the mouse and keyboard
- Workspace, icons, windows
- Saving and opening files
- Folders – creation and use
- Renaming folders and files
- Deleting folders and files
- Recycle Bin
- Copying and moving folders and files
- Formatting diskettes
- Working with CDs

Microsoft Word 2000

- Introduction into Microsoft Word
- Page margins, Text orientation
- Moving the cursor, inserting and deleting text
- Selecting text
- Undo and do it again
- Copying and moving text
- Paragraph – formatting with justifying commands
- Tabulator – type and use
- Font – formatting text
- Header and footer
- Inserting page numbers and numbering
- Tables, formatting tables
- Printing
- Formatting Microsoft Word
- Automatic saving changes

Internet – for Judges and Court Advisors

- Connecting to and disconnecting from the Internet
- Internet Explorer
- WEB pages, Home page, Index page, Hyperlink
- Catalogue of favorite pages – Favorites
- History, changing the initial page
- Saving data from a page
- Page printing

- Electronic mail – E – mail
- Outlook Express
- Creating messages
- Reading mail, replying, forwarding
- Attachment
- Saving a message
- Printing a message
- Address book

Attachment 28:
Report on Reading and
Understanding Financial
Statements

ATTACHMENT 28

REPORT ON READING AND UNDERSTANDING FINANCIAL STATEMENTS

INTRODUCTION

In a conversation with judges at the High Commercial Court, one of the judges, Judge Vesna Buljan, suggested that there should be a seminar on understanding financial statements for the bankruptcy judges. After discussing the matter with Pres. Borislav Blažević High Commercial Court, Booz Allen Hamilton (BAH) decide to organize a short seminar on the topic. Pres. Blažević appointed Judge Vesna Buljan to work with BAH to organize the seminar. Several accounting firms were suggested and we decided to contact Kopun d.o.o.

Kopun d.o.o. is a reputable Croatian accounting firm. Mr. Vladimir Kopun is the principal in the firm. The firm has advised trustees and the Commercial Courts on bankruptcy accounting issues and is known to the Commercial Courts. Mr. Kopun was a secondary teacher before starting the firm and currently lectures on accounting at the Zagreb campus of Split University.

At BAH's request Kopun d.o.o sent a list of topics that it believed could be considered for a basic seminar in Reading and Understanding Financial Statements. See Attachment A for a copy. BAH and Judge Buljan reviewed the list and Judge Buljan selected the topics that she believed would be most useful and appropriate. BAH then met with Kopun d.o.o and finalized the arrangements. Kopun and BAH agreed that there should be a meeting with the High Commercial Court to cover all issues related to the seminars.

Seminar Details: At the meeting at the High Commercial Court attended by President Blažević, Judge Buljan, Pres. Nevenka Marković (Zagreb Commercial Court), Mr. Kopun and BAH, the participants decided on the following details for the Seminar on Reading and Understanding Financial Statements:

- The seminar should cover basic issues.
- The participants should do accounting exercises to familiarize themselves with basic accounting skills.
- Kopun d.o.o. should prepare written material including exercises for the participants.
- The primary focus should be to provide bankruptcy judges with skills needed to manage bankruptcies.
- The seminars should be held on Fridays.
- There would be 5 seminars to take place in Osijek, Split, Rijeka, and 2 in Zagreb.
- Each seminar would last for approximately three hours with three 15 minute breaks.
- The seminars would be held in the Courthouses in the cities where the seminar was to be held.

SEMINARS

Mr. Kopun prepared and handed out at each of the seminars a paper covering the topics on which he would lecture. The paper included exercises to be completed and discussed during the seminar. See Attachment B for a copy. (NOTE: Not included due to size)

The 5 seminars were held on the following dates:

- 13 February 2004 – Osijek

- 16 February 2004 – Rijeka
- 18 February 2004 - Zagreb (High Commercial Court and Courts close to Zagreb but not including Zagreb Commercial Court)
- 20 February 2004 -Split
- 27 February 2004 - Zagreb, (Zagreb Commercial Court)

Participant lists for each of the 5 seminars is attached as Attachment C.

Mr. Kopun began each seminar lecturing on various topics such as the Law on Accounting, the structure of financial reports, the Law on Auditing, and classification of entrepreneurs. After approximately an hour to an hour and one-half of lecturing and responding to questions, Mr. Kopun began to present a series of exercises in which the participants moved from exercises with very basic balance sheets and income statements to more complex exercises. Mr. Kopun followed the handout closely and used overheads during the entire presentation.

Although offered pauses at several points during the seminar, the participants elected to have one pause approximately halfway through the three hour program.

CONCLUSIONS

The seminar participants were attentive and interested in the topics. Although the material was basic, the participants remained interested and participated fully in the exercises.

Mr. Kopun held the attention of the participants and presented the material in a lively and informative way, often with comments on personal experiences. His use of the overheads was excellent and held the attention of the participants

In discussion with the participants during the break and after the seminar, they expressed satisfaction with the material. Judge Buljan attended the seminar on 18 February 2004 and commented afterward that the seminar covered the topics as planned and that the material, although basic, was exactly what was needed to bring bankruptcy judges to at least a basic understanding of the accounting issues in bankruptcy.

Prepared by:
Booz Allen Hamilton
28 February 2004

ATTACHMENT A

TOPICS FOR TRAINING

Note: The following is a translation of the Fax from Kopun

Based on your fax, we are sending you our proposal for the following topics:

- 1. Accounting Act, prescribed items of a Balance Sheet, Profit and Loss Statement, Cash Flow Report, Report on all changes in the Principal, mandatory application of the International Accounting Standards, Accounting Policies of a company, Notes accompanying financial reports (introduction)**
- 2. Balance Sheet (assets, liabilities, equity), solving simple problems**
- 3. Qualitative and quantitative analysis of the balance sheet, solving simple problems**
- 4. Selling of assets (real estate, equipment, all kinds of reserves) and its impact on the Balance Sheet**
- 5. Selling of shares held by the company above or below the value shown in the Balance Sheet – procedure and tax implications (example – financial rehabilitation of the health insurance system by transferring worthless shares of some shipyards or the example of paying some reconstruction work in some company's shares)**
- 6. Latent reserves and hidden losses – impact on the Balance Sheet and on the Profit and Loss Statement, solving simple problems**
- 7. What can increase the value of the company, without being contained (included) in the Balance Sheet**
- 8. What can reduce the value of the company, without being contained (included) in the Balance Sheet**
- 9. Subscribed capital and paid-in capital – how they are shown in the Balance Sheet**
- 10. Capital increase (by input of cash, non-cash and rights/by conversion of receivables into a share (part-ownership, shares))**
- 11. Establishment and increase of nominal capital audit**
- 12. Decrease in equity (for covering a loss, by withdrawing a share/shares)**
- 13. Profit before taxes, net earnings, distribution of profit, difference between accounting profit and calculated corporation tax (tax balance sheets)**
- 14. Reserves (legal, statutory, other) and their usage**
- 15. Establishing dependent companies, changes in the balance sheet of the founder and opening business records of the dependent company.**
- 16. Report on the relations with the dependent companies ("dependency report"), who, why, how, time limits, problem of the transfer of prices**
- 17. Consolidated balance sheet (what is a group, when is consolidation mandatory, how is it done)**
- 18. Risks connected to the accuracy of the Balance Sheet while using IT technology – practical examples**

19. **Cash Flow Report, solving simple problems**
20. **Report on all changes in principal, practical examples**
21. **Notes accompanying financial reports and how thorough they ought to be – practical examples**
22. **Inventory is prescribed by the law, but also necessary from the economic standpoint**
23. **Mergers, acquisitions and demergers of companies, documenting it in the business records**
24. **E-banking – credibility of document and electronic signature**
25. **Balance sheet of a company in bankruptcy proceedings, tax treatment**
26. **Audit of a company in bankruptcy proceedings**
27. **Liquidation balance sheet**

Equipment for trainers: white board and markers, overhead with clean transparencies and markers – if there is no white board, an overhead is necessary in any case, if possible – use of LCD projector for Power Point presentations would be excellent.

Participants should each have a pen and a writing block.

If the number of participants in any town should exceed 30, please let us know 2-3 days in advance, in order for us to prepare a sufficient number of handouts.

We suggest the workshops to take place in early February.

The trainers are:

Vladimir Kopun, M.Sc., certified auditor, certified accountant, auditor for ISO, first chairman of the Supervisory Board of the Zagreb Stock Market

Dubravka Kopun, jr., certified auditor, certified broker.....

Milan Špiček, dipl.iur. and certified broker, has been with us since 1992

Upon your request, we can send you complete CVs.

**You should cover: real travelling expenses, accomodation and per diem
Fee per session (40 minutes) of training is € ... + PDV (to be paid in HRK)**

Roughly, we estimate that a total of sessions would be required to complete the training.

ATTACHMENT C PARTICIPANT LISTS

Osijek

NAME	COURT
Davorin Pavičić	Slavonski brod
Mario Včelik	Slavonski brod
Mirna Vujčić	Slavonski brod
Dubravka Matas	Osijek
Vesna Vukelić	Slavonski brod
Josip Gabrić	Osijek
Tihomir Kovačević	Osijek
Marija Šarić	Osijek
Vesna Schiller	Osijek
Kata Gojtan	Osijek
Mirjana Baran	Osijek
Viktor Palić	Osijek
Dubravka Knežević	Osijek

Rijeka

NAME	COURT
Tamara Juoo	Rijeka
Helena Olivari	Rijeka
Nikola Mišković	Rijeka
Ružica Kajić	Rijeka
Nada Makuš	Rijeka
Marina Veljak	Rijeka
Nevenka Huljev	Rijeka
Ika Mohorović	Rijeka
Zvonimir Grgić	Rijeka
Zekić	Rijeka
Miljenko Kurobasa	Rijeka
Daniela	Rijeka
Ljiljana	Rijeka
Danica Vučinić	Rijeka
Ivana Bolf	Rijeka
Željka	Rijeka
Kristina Saganić	Rijeka

HIGH COMMERCIAL COURT & COURTS CLOSE TO ZAGREB.

NAME	COURT
Valent Mikuldaš	Bjelovar
Mate Ivančić	Bjelovar
Branka Pleskalt	Bjelovar
Sanja Zorinc	Bjelovar
Tomislav Mrazović	Bjelovar
Igor Periša	Bjelovar
Siniša Rajnović	Bjelovar
Berislav Belec	Sisak
Mihael Kovačić	Sisak
Jelena Čuveljak	Sisak
Jasna Lekić	Varaždin
Violeta Njegač	Varaždin
Ksenija Flack-Makitan	Varaždin
Hugo wedemeyer	Varaždin
Vesna Buljan	High Commercial
Mario Vukelić	High Commercial
Lucija Čimić	High Commercial
Renata Vugrinčić	High Commercial
Lidija Tomljenović	High Commercial
Željko Orešković	High Commercial
Josip Kos	High Commercial
Branko Čiraković	High Commercial
Ante Milinović	Zagreb

SPLIT

NAME	COURT
Mladen Pavlović	Split
Ivan Bašić	Split
Lucija Musić	Split
Nevenka Marunica	Split
Senka Mrkoljić	Split
Marija Balić	Split
Ante Čapkun	Split
Mladenko Žužul	Split
Igor Delin	Zadar
Maja Jurovicki	Zadar
Joško Livaković	Šibenik
Ardena Bajlo	Zadar
Maja Skorić	Šibenik
Josip Novak	Zadar
Jagoda Renje	Šibenik
Šerif Arnautović	Dubrovnik
Vinka Mitrović	Split

Nikša Mojara
Eda Maleš
Jozo Čaleta
Ivo Bakalić

Dubrovnik
Split
Split
Split

ZAGREB COMMERCIAL COURT

NAME	COURT
Marija Jarduna	Zagreb
Biserka Poničić	Zagreb
Maja ?	Zagreb
Lenka Čorić	Zagreb
Željko Šimić	Zagreb
Ivan Vladić	Zagreb
Ante Galić	Zagreb
Vesna Malenica	Zagreb
Raoul Dubravec	Zagreb
Mario Žišković	Zagreb
Ružica	Zagreb
Gorana	Zagreb
Sandra Mikinac	Zagreb
Marija Bakula	Zagreb
Tina Jakupak	Zagreb
Nataša Orešković	Zagreb
Ljiljana Tomić	Zagreb
Alica Pelicarić	Zagreb
Nino Radić	Zagreb
Nevenka	Zagreb
Rundek Jasenka	Zagreb
Radovan Dobrić	Zagreb
Lucija Butiga	Zagreb
Nada Kraljić	Zagreb